

*STATE OF TENNESSEE*

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**Agency Strategic Plans**

**Executive Branch**



**Volume 2**

**Phil Bredesen, Governor**

**September 2003**

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# Law, Safety, and Correction

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# Department Of Correction

## General Agency Information

The Tennessee Department of Correction (TDOC) exists for the purpose of safeguarding the public by providing supervision of convicted felons during their period of commitment to its jurisdiction. The Department fulfills its obligations through the incarceration of inmates in a variety of secured institutional settings. All individuals are assigned to the Department by the criminal courts of Tennessee (or are incarcerated in Tennessee prisons under the Interstate Compact Agreement) and managed in accordance with Department of Correction policy and procedure.

The chief executive officer of the Department is the Commissioner of Correction. The commissioner is assisted by the deputy commissioner, who is responsible for the day to day operation of the Department. Assistant commissioners head both of the major divisions in the Department and report to the deputy commissioner; they are responsible for a variety of functions within their respective areas of operation.

The assistant commissioner of administrative services supervises the various administrative and fiscal components of TDOC operations. The assistant commissioner of operations is responsible for supervision of the daily operation of the 15 prisons (12 TDOC and three privately managed, one of which is State-owned) and various central office staff who provide support and guidance for institutional operations. Males are admitted to one of three classification centers and females are admitted to the Tennessee Prison for Women (TPFW). The classification process consists of various evaluations that provide institutional staff with information concerning the inmate's physical and mental health, work and training experience, educational background, religious affiliation, and family background. Upon completion of the classification process, an inmate is assigned to a specific facility and custody level, and recommendations as to work and treatment/course assignments (educational, vocational, mental health and substance abuse treatment, etc.) are made. The custody level (minimum, medium, maximum or close) of an inmate is determined by an objective rating scale which was developed by the National Institute of Corrections, a branch of the U.S. Department of Justice.

The Department has 22 separate allotment code program areas:

1. Administration
2. State Prosecution
3. Major Maintenance
4. Sex Offender Treatment Program
5. Federal Construction Grants
6. Sentencing Act of 1985
7. Tennessee Correctional Academy
8. Brushy Mountain Correctional Complex
9. Tennessee Prison for Women
10. Turney Center Industrial Prison and Farm
11. Mark Luttrell Correctional Facility
12. Middle Tennessee Correctional Complex
13. Southeastern Tennessee State Regional Correctional Facility
14. West Tennessee State Penitentiary



15. Riverbend Maximum Security Institution
16. Northeast Correctional Complex
17. Northwest Correctional Complex
18. Wayne County Boot Camp
19. Lois M. DeBerry Special Needs Facility
20. Hardeman County Correctional Facility
21. Whiteville Correctional Facility
22. South Central Correctional Facility

## **Administrative Services**

### **329.01 Administration**

The program, Administration, is comprised of 22 services. Six of these services primarily concern the operation of TDOC institutions (Community Service Crews, Education and Library Services, Inmate Classification, Inmate Jobs, Security Threat Group, and Sentence Management) while another six focus on administrative issues (Budget and Fiscal, Energy Management and Facility Safety, Contracts, Management Information Systems, PreRelease and Transition Services, and Procurement). The Deputy Commissioner directly manages four key Departmental services including Compliance, Engineering, Food Services, and Health Services (which includes inmate Mental Health and Substance Abuse services). The Commissioner directly manages six services: Internal Affairs, Legal, Legislation, Personnel, Planning and Research, and Public Information.

### **Statutory and Constitutional Objectives**

TCA 4-3-603 establishes the executive office of the commissioner of the Department of Correction and discusses the duties of this position. Additionally, TCA 4-3-606 outlines the powers and duties of Department.

### **Mandated and Optional Services and Means of Providing Them**

TCA 3-15-106 mandates that the Department of Correction provide requested information to the Select Oversight Committee on Correction as needed. The Planning and Research Unit and other service areas meet this mandate by providing the committee with all requested information in a timely manner.

The Department of Correction also provides to the Committee all monthly, quarterly and annual reports produced within Planning and Research, any additional reports and information as requested or desired, and advises them of new Planning and Research projects and initiatives via communication with the Committee's Executive Director.

TCA 4-3-603 mandates that the commissioner is the executive officer of the Department of correction and has the immediate charge of the management and government of the institutions. In adherence to this mandate, TDOC Food Services operates with the guidelines of American Correctional Association. Inmates are provided with therapeutic diets, religious food preferences

are addressed, master menus are changed twice per year, a registered dietitian prepares the menus, and the meal service environment is pleasant.

The Food Services division coordinates the food service operations in all TDOC managed correctional institutions. This division also works with the State Food Service Board of Standards, which administers Cook Chill, a contract facility that prepares and distributes food supplies to TDOC institutions. Additionally, the division works with other correctional facilities in and outside of Tennessee on issues relating to food service. Advice and instruction are provided on operational matters such as controlling food costs, food preparation, receipt of food, compliance with nutritional guidelines, and sanitation. Institutional visits and annual inspections monitor compliance with TDOC policies and ACA standards. The Tennessee Department of Health inspects all food service operations.

In accomplishing the tasks as mandated/allowed by TCA 4-3-609, the Internal Affairs service initiates and adheres to standards of procedure to comply with constitutional and recognized law enforcement practices and procedures.

The Internal Affairs Unit: 1.) provides a mechanism to ensure that all investigations of criminal and/or administrative misconduct at any TDOC work site are conducted and disposed of in a manner that assures objectivity, fairness, and justice, 2.) conducts investigations only upon authorization of the Commissioner of Correction. Investigations may be initiated on the basis of allegations, reasonable suspicion, or complaints relating to employees, and/or private citizens, regardless of public function, at any TDOC work site, and 3.) as an optional service, works with and assists other law enforcement agencies in addition to District Attorney's offices.

Each institution's Food Service section provides, as mandated by TCA 4-6-117, a monthly financial statement of receipts and expenditures received during the previous month.

TCA 4-6-143 requires TDOC to operate as a State Special School District and fully comply with the Department of Education's Minimum Rules and Regulations for the Governance of Schools. TDOC re-applies annually to maintain approved status.

Departmental policies govern the institutions' academic and vocational education courses for inmates, including class and treatment accreditation, staff certification and coordination with other institutional programs and services as well as the community. Approximately 20% of the inmate population at each institution are enrolled in either an academic or vocational education course.

TCA 4-6-144, federal Law, and ACA standards mandate an inmate library to be maintained at each TDOC facility. The library provides legal materials for the inmate to access the court system. Educational and leisure reading materials are available for the inmate's use as well.

TCA 8-6-301 mandates legal assistance to the Department in the administration of its duties. The legal section advises staff on legal matters, provides consultation, and represents the Department in administrative hearings.

As an optional service, the Office of General Counsel also: 1.) provides assistance, recommendations, and training to institutional administrators and staff regarding correctional issues and the effect of changes in all areas of the law upon the operations of the Department, 2.) reviews and recommends changes to Departmental policies, provides legal advice on matters affecting the Department, 3.) reviews and analyzes proposed legislation with respect to potential

departmental impact, and 4.) assists the Office of the Attorney General and approved private counsel in the defense of Departmental employees sued by inmates for alleged constitutional civil rights violations and in the defense of the state in claims filed in the Tennessee Claims Commission.

TCA 9-4-5102 mandates that each Department provide a document adhering to newly defined guidelines and procedures which will be utilized to implement the Performance Based Budgeting process. The Planning and Research division (P&R) has developed and coordinated a new procedure for the entire Department in order to effectively and efficiently provide the necessary information according to mandated guidelines. Per mandate, Planning and Research has also implemented the reporting standards, which require quarterly updates to the Performance Measures specified in the Strategic Plan.

TCA 10-7-503 mandates the Department to provide data and records in response to public inquiry or request. Because TCA mandates that TDOC make the internal records available to the public upon request, the Department also maintains a Public Information Office. The Public Information Office is the central point for communication with the public and the media about the Department of Correction. The Public Information Officer (PIO), is the primary liaison between the Department and the community at large. The office fields questions from all over the world, but the majority of requests originates from the 600 media outlets in the state of Tennessee.

The PIO is also responsible for the content found on the Department of Correction website. Approximately 20-30 requests per day are generated by the website. A majority of those requests come from the general public. If there is a security question regarding the release of a particular document, the request will be referred to the Legal Section for review.

To be efficient in responding to public records requests, the Department has taken extra steps to make public records accessible instantly via the website. The Department has added the Felony Offender database to the home page. The FOIL application, as it is called, lists every inmate who is currently housed in the state prison system. The public can also gather information about an inmate's parole eligibility and date of release. This has proven to be an invaluable tool for victims as well as family members of inmates who are interested in monitoring a sentence.

Job listings within the Department are also listed on the website along with other valuable information for potential employees. Additionally, many Departmental policies and procedures are on-line for members of the public who may be interested in finding out more about how the prison system operates.

The Legislative Liaison also provides information to the public. The Legislative Liaison primarily provides information to members of the General Assembly and their staff in response to proposed legislation or to answer inquiries from their constituents. The liaison also provides information prepared by the Department's legal section and the budget/fiscal section to the Governor's Office, the Fiscal Review Committee, and the Select Oversight Committee on Corrections regarding the impact of proposed legislation on the TDOC.

TCA 12-4-109 requires service contracts to be in accordance with rules established by the Commissioner of Finance and Administration. The Contract Administration service is responsible for procuring personnel service contracts to meet the Department's needs as well as comply with the established rules.

This section writes contracts, requests for proposals (RFP), and purchase authorizations to assist institutions and central office administrators to procure personal services, professional services, and consultant services vital to the mission of the Department. The Contract Administration section is responsible for ensuring that the Department complies with the statutes, rules, and policies applicable to the service procurement and contracting processes. It serves as a single point of contact between TDOC and the Office of Contracts Review in Department of Finance and Administration.

TCA 40-35-321 requires convicted felons to submit DNA. TDOC collects DNA (blood) samples from offenders during intake/classification. Beginning in 1991, samples were collected from sex offenders, and in 1998, samples were collected from all felons. The samples are submitted to the Tennessee Bureau of Investigation for inclusion in the national DNA database.

TCA 40-35-501 mandates the calculation and modification of felony sentences in the State of Tennessee. Sentence Management Services (SMS) provides sentence management information, computation of all felony sentences, monitors and reports release dates and eligibility dates to Board of Probation and Paroles in order to produce eligibility dockets. SMS has two divisions, Sentence Computation Services (SCS) and Sentence Information Services (SIS).

Sentence Computation Services will establish and record release eligibility dates, safety valve dates and expiration of sentence dates for all felony offenders in Tennessee regardless of their place of confinement. Per mandate, TDOC calculates sentence credits earned by the inmate to reduce the inmate's release eligibility date and expiration date.

Sentence information and expiration dates are also maintained for all offenders whose sentences are suspended to probation.

Sentence Information Services provides sentence calculation training and programmatic direction for institutional record clerks, institutional unit management staff and Sentence Management Services staff. SIS also provides research in the areas of sentence calculation, sentence credits earned or removed, eligibility for parole, and the verification of expiration of sentences for all incarcerated felons. As an optional service, SIS responds to numerous requests for sentence information received from attorneys, offender family members, law enforcement agencies and other TDOC divisions

TCA 41-1-102 mandates periodic searches of the workforce for contraband prior to entering a state correctional facility. All visitors entering state correctional facilities are also routinely searched for contraband. In 1998, the Department purchased six ion-mobility spectrometry machines to check staff and visitors for the presence of illegal narcotics.

TCA 41-1-104 requires the Department of Correction to provide a safe, secure, and orderly institutional environment for staff and inmates.

As an optional service, the Security Threat Group (STG) is an integral component of TDOC. STG management encompasses the identification, monitoring, and tracking of confirmed STG members and affiliates throughout their incarceration. Institutional STG coordinators are assigned to every TDOC facility and contract facility housing TDOC inmates. It is the responsibility of the institutional STG coordinator to identify, monitor, and document information on STG inmates and STG activity within the institutions and report their findings to the Director of STG Services. Currently, there are approximately 1,700 confirmed STG members and 1,500 suspect STG members within the TDOC. The Tennessee Offender Management Information System (TOMIS)

is utilized and provides the STG team with the ability to access STG intelligence and other vital information on inmates.

TCA 41-1-106 mandates the penitentiaries are operated in accordance with principles and standards accepted in the professional field of corrections. The only nationally accepted standards for the operation of institutions, training academies, and central offices are those published by the American Correctional Association (ACA). During ACA audits, the Department's policy and procedure requirements and the performance of the Department's staff are evaluated according to these standards. All mandatory standard requirements and at least 90% of the additional standards must be complied with to continue the Department's accredited status.

The Compliance section is responsible for three functions that are critical to the operational quality of the Department of Correction. Accreditation by the American Correctional Association, annual inspections by teams of specialists, and internal audits of fiscal processes and procedures, all provide the commissioner with valuable information on the effectiveness of the administration and management of the Department and result in operational improvements in the institutions/training academy.

TCA 41-1-120 mandates the Department of Correction to implement a monthly random drug-testing program within all state correctional facilities. Currently the Department randomly tests 10% of each institution's in-house inmate population on a monthly basis. Over the last five years, the Department has experienced a decline in the number of inmates testing positive on the monthly random drug screen.

TCA 41-1-201 mandates that the Commissioner is the chief officer and appoints a competent professional staff of employees necessary to operate the correctional system. In adherence to this process, the personnel office will follow all rules and procedures set forth by the Department of Personnel in the selection of executive and civil service employees. Each executive service employee will meet the minimum qualifications set forth by the Department of Personnel and each career employee will be hired in accordance with civil service regulations.

The Personnel Division provides technical assistance and advice, ensures compliance with Civil Service Rules, EEOC/Affirmative Action, state laws, and policies. As an optional service, this section also implements and monitors personnel related initiatives such as employee relations, recruitment and retention, training, performance evaluations, employee transactions, and employee benefits (including employee assistance, insurance, retirement, family medical leave, worker's compensation, and accommodations under Americans with Disabilities Act, etc.).

Management Information Systems (MIS) provides hardware, software and training support for the state's mainframe felon tracking application and its adjunct systems, business systems, institutional electronic security systems, facility maintenance networks, and inmate digitized and microfilmed records.

TCA 41-1-403 mandates the Department to have a sound classification system that is necessary for an efficient and manageable correctional system. The classification system provides for a safe environment for offenders.

As an optional service, the classification unit is responsible for ensuring that the inmate population does not exceed capacity limits. This is accomplished by authorizing admissions of inmates to the Department's reception centers from county jails on a daily basis contingent upon

available capacity. Further, the division monitors and approves inter-institutional transfer of inmates on the basis of population levels.

TCA 41-21-204 mandates the appropriate health evaluation and treatment of each inmate. In adherence with this mandate, each inmate completes various intake evaluations during classification process, which provides information concerning the inmates' physical, mental health, substance abuse history, work and training experience, educational background, religious affiliation, and family background. Based on these evaluations decisions are made concerning the most appropriate institutional placement or special requirements of each inmate.

TDOC's Health Services division ensures compliance with mandates. This unit also develops, monitors, and maintains a myriad of other health and mental health treatment initiatives. The Division of Health Services is responsible for the overall planning, coordination, organization, and monitoring of the Department's provision of health care, mental health services, and substance abuse programming.

TCA 41-21-204 requires psychiatric care for inmates. TDOC offers a full spectrum of basic, transitional, intermediate, and acute psychiatric and behavioral health care. Primary in-patient care is available at the DeBerry Special Needs Facility (DSNF). Transitional psychiatric treatment is offered at the South Central Correctional Facility. All institutions provide psychological and psycho-educational testing, evaluations, and assessments; group and individual counseling services; crisis intervention; and medication management.

Additionally, mental health services are offered at every TDOC institution. These services are aimed at changing criminal behavior and thinking, and helping offenders to adapt to health lifestyles and decision-making. Services include, but are not limited to, anger management, violence intervention, coping skills, life-skills management, and parenting skills.

Only the American Correctional Association (ACA) and National Commission on Correctional Health Care (NCCCHC) have separate standards on health care in prisons and jails. The American Correctional Association evaluates standards in TDOC facilities with regard to the following health services' components: emergency care, sick call, and infirmary care, management of communicable diseases, mental health services, pharmacy, nutrition, educational training for staff and inmates, infection control, dental care, individualized treatment plans, and continuous quality improvement.

TCA 41-21-207 requires healthy inmates to be kept in work or school. Inmates without a verified high school diploma or GED certificate may enroll in educational courses. Academic courses include Adult Education and literacy classes. These courses are geared toward preparing inmates to take the Official GED Test. Inmates may participate in college level classes via correspondence at their own expense and with the approval of the warden.

In addition to the mandated education and vocational courses, optional classes, such as Pre-Release training, are offered at TDOC institutions. Each TDOC facility now has a staff member whose primary responsibility is to develop a Pre-Release training. Based on an existing Risk Scale, the Board of Probation and Parole (BOPP) determines a participant to be at high risk to recidivate, considers the criteria set forth in the proposal, and recommends parole to the initiative entitled Tennessee Bridges.

Parole to TN Bridges is a three year, three phase initiative for a target population of 300 participants. Core treatments include: victim impact, anger management, substance abuse, family

reunification/parenting, cognitive behavior, career development, and educational/vocational needs. After successful completion of Phase I, TN Bridges staff recommends a participant to enter and work/educational/vocational release training. While still in custody participants are on supervised release to the community utilizing electronic monitoring devices. Phase II is release to the community on intensive parole supervision. Phase III focuses on sustaining the transition into family or residential living through intensive aftercare by assisting the ex-offender develop resources on an as-needed basis (i.e. job retention, counseling/support services or securing new employment if offender loses job or re-location does not support current employment, etc.).

TCA 41-21-208 requires TDOC to provide employment to inmates. Inmates are afforded opportunities in jobs necessary for the daily operation of the institution. Participation in these jobs keeps the institution operating smoothly and efficiently and keeps the inmates occupied in meaningful tasks. Furthermore, it allows the inmates to earn sentence credits and to earn a small salary thus maintaining a level of self-sufficiency. The Department facilitates the use of inmate workers in assisting local non-profit agencies and organizations in community projects.

Offender employment in and out of the institutions has saved thousands of dollars in operational costs for the Department as well as for other state government agencies.

The Tennessee Department of Correction has a long history of putting offenders to work. It is not only departmental policy to put them to work inside the institution, but also, if eligible, work outside the institution. The Tennessee Department of Correction is committed to offenders working and is evidenced by over 800 offenders participating in the Department's community work initiative. In recent years, the initiative has been expanded to benefit more non-profit groups and government agencies. In 1995, the community work initiative was reorganized as central office staff was appointed to administer the initiative.

Since 1997, TDOC work crews have continued to average more than 1.3 million hours of labor each year, providing taxpayers and non-profit groups with more than \$7 million dollars in saved labor costs annually.

Per Tennessee Constitution – Article I, Section 32, TDOC must construct and operate new prisons and renovate existing prisons in compliance with state and federal building codes and standards. As an optional service, the Department also complies with ACA standards in these areas.

As an optional service, the Engineering Service section forms an administrative bridge between institutional managers and the architects, engineers, and contractors providing services at the institutions. This section prepares maintenance budgets, new construction initiatives, cost proposals, and maintenance policies. Engineers review construction plans, specifications, and completed work, as well as investigate new building sites and designs. In addition, the staff serves as a liaison between the Department, Finance and Administration's Capital Project Management division, the Select Oversight Committee for Correction and the State Building Commission.

The Budget and Fiscal Services sections are required to comply with rules and regulations established by the Department of Finance and Administration and the Department of General Services. State law gives those two Departments the authority to promulgate policies and procedures that must be followed by other agencies of state government.



Per the aforementioned rules and regulations, the Budget and Fiscal Services section of the Department of Correction provides administrative and technical support to all initiatives, and ensures that funds appropriated to support operations are expended with sound fiscal management and accountability.

ACA mandates that institutions conform to applicable federal, state, and/or local building and fire safety codes. In adherence to this mandate, institutional staff conducts all weekly and monthly inspections. Both TDOC personnel and the Tennessee State Fire Marshal's Office conduct annual inspections. Deficiencies that are noted are evaluated and corrected within acceptable time frames. The TDOC Central Office provides technical assistance in support of institutional safety efforts.

TCA 12-3-201, et seq. and 12-4-101 et seq. requires the Department's procurement service to comply with the statutory requirements related to public purchases and public contracts under the rules and regulations of Tennessee Department of General Services and the Tennessee Department of Finance and Administration as provided. In addition, TCA 4-6-102 grants the Department of Correction all power necessary for the full and efficient exercise of the executive, administrative, and fiscal supervision over all such institutions.

To insure compliance, the procurement service in Central Office establishes Department policies and procedures and provides oversight to all Department programs for the acquisition of goods and services. In July 1997, centralized procurement was established for the Davidson County institutions, and the procurement officers were transferred to central office to perform these functions. The centralized procurement staff is organized by commodity groups to streamline the purchasing process. This system creates the opportunity for staff to compare their assigned commodities among the facilities and has helped to establish central contracts for purchasing leverage. In addition to purchasing for the Davidson County facilities, the centralized procurement section processes procurement orders required by Central Maintenance, the Central Radio Shop, MIS, ITS and Central Office. Other TDOC facilities have procurement staff on-site who are responsible for the purchasing activities at their respective facilities. All purchases are made in accordance with rules and regulations promulgated by the Department of General Services, Purchasing Division.

## **Performance Standards**

1. Maintain compliance of institutions/facilities/programs audited by the American Correctional Association.
2. Final compliance score given by the American Correctional Association Commission Panel.

## **Performance Measures**

1. The percent of institutions/facilities/programs in compliance with ACA standards.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

2. The final compliance score given by the American Correctional Association Commission Panel.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96.5%	97%	97.25%

### **Obstacles to Meeting Objectives and Delivering Services**

The decreasing of state and federal funds results in limited resources (e.g., funding, staff, supplies, training, and technology) making the services more difficult to provide. Furthermore, the limited resources negatively affect the efficiency with which TDOC is able to complete requested research, data extracts, planning functions, public information requests, internal investigations, legislative requests, etc. This also negatively affects a variety of institutional services such as major maintenance for facility upkeep, pre-release, education, vocational, and mental health treatment services.

The inmate population growth, which results in an increased demand for a number of services (e.g., processing sentencing documents, security threat group, intake, education, research and planning, personnel, legal, public information, budget and fiscal, internal investigations, food services etc.), while the workforce and available resources are decreasing or remain static.

Limited physical space restricts areas to conduct business and training activities.

There is limited funding for energy projects such as energy audits and statewide energy management accounting and reporting.

Aging, outdated, and ineffective technology and automated systems (specifically, procurement, commissary, and inmate trust fund) is a significant issue in several areas, including inmate records services tracking.

Recruiting and maintaining qualified field and central office staff is an obstacle to delivering facility security systems, security threat group management, sentence computation, computer network services, high level research, timely public information, classification, transportation, education, food, health, psychological, substance abuse, and community relations services.

The increasing number of court orders in child custody matters requiring transportation of TDOC inmates results in exceeding the limited transportation occupancy rate.

Lack of leisure reading materials in institutional libraries limits choice and availability.

Political and/or community opposition occurs due to TDOC expansion projects.

There is lack of staff time or field cooperation for new safety initiatives as well as the lack of timely reporting of facility energy consumption.

New building projects involve a lengthy development process (at least three years).

American Correctional Association auditors from outside the state are very difficult to anticipate. Their levels of experience and interpretation of the performance standards can vary.

While the persons from the Compliance section are in charge of the annual inspection process at each facility, most of the inspectors are from field locations and are not accustomed to inspecting.

Budgetary constraints may affect the number of inspectors that can be sent out to the institution and thereby reduce the efficiency of the process.

The number and percentages of special needs offenders within TDOC are increasing. These offenders are significant consumers of costly correctional services. Special needs offenders include those who are female, elderly and frail, mentally ill, addicted, chronically ill and physically disabled, behaviorally disordered, psychosocially challenged, and/or cognitively impaired.

The incidence of chronic diseases (severe and persistent mental illness, Hepatitis C, HIV, asthma, chronic renal failure, chest pain, hypertension, diabetes, etc.) is increasing among the inmate population.

TDOC lacks a viable offender health services database and is in need of an electronic medical record.

TDOC lacks dedicated hospice and palliative care treatment and offender housing.

There is insufficient cross training for correctional personnel in order to perform their duties in a therapeutic rather than punitive manner.

There is an increase in the number and severity of substance abusing felony offenders in Tennessee prisons.

There is limited availability of halfway houses and other transitional release training for offenders, which may cause a delay in the release of some inmates.

## **Means of Overcoming Obstacles**

Development of collaborative projects with other relevant agencies or institutions (private or public) and active application for federal or non-state funding is an option to supplement state funds and provide enhanced resources. Specifically, TDOC is working with the Board of Parole and Probation to examine recidivism in Tennessee and enhance shared information between agencies.

Alternative funding opportunities are being sought for enhancements to reduce recidivism. Funds will be used to study best practices and incarceration alternatives.

Application for federal or non-state funding will be done to help supplement state funds and provide enhanced physical resources and space.

TDOC will develop internal methods of obtaining energy consumption information as well as internal controls and methods for enhancing field cooperation. Utilizing an energy savings performance contract (ESPC) will generate funds for energy projects. Development of an

accurate statewide energy management accounting and reporting system would enhance current efforts. The Department may utilize industry smart meters to analyze energy consumption trends.

Alternative federal grant or foundation funding will be sought to update outdated technology and automated systems or to develop new, effective hardware and systems.

Partnership with DOP is being considered for creative alternatives in providing adequate pay scales for difficult to fill positions and in seeking alternate funding to enhance retention, recruitment and reward opportunities through federal and state grants. Position reclassification may also be addressed to more appropriately recruit and compensate for the specific skills required.

TDOC will continue to communicate with Courts for assistance developing a better system for offender presence in the court. Teleconferencing court hearings as well as the utilization of additional transport vehicles to accommodate transportation needs may help to overcome the transportation obstacles.

Alternative means of obtaining books are being sought (i.e. donations, non-profit support groups, etc.) along with setting an annual budget allowance for each institution to purchase library books.

Plan meetings with county executives and legislators to better clarify goals and objectives of proposed TDOC projects.

TDOC will develop internal controls and methods for enhancing field cooperation with safety initiatives.

TDOC will consider alternative construction delivery methods to reduce occupancy time of new construction such as fast track or design build methods and use pre-assembled components.

Audit preparation will be approached as if all auditors are of the most challenging type. Training for accreditation managers and institutional personnel will emphasize this philosophy.

Every effort will be made to train inspectors in such a way as to impact the quality of their work.

All areas will be constantly monitored to ascertain the need to devote resources to evaluating the service, program or function.

Long range plans are to be established in addition to seeking funding for the treatment and management of offenders, who are elderly and frail, chronically ill and physically disabled, behaviorally disordered, psychosocially challenged, and/or cognitively impaired. Specialized housing and trained staff is required for the provision of long term, therapeutic care and supervision.

TDOC plans to increase chronic care resources and educate the inmate population in wellness and disease management.

Development of an electronic medical record will assist in record maintenance. Staff will receive training to use the tool appropriately and monitor its accuracy through regular inspections and review.

TDOC will resubmit plans to the Select Oversight Committee on Corrections for a dedicated long-term care housing unit and associated support services.

Routine pre-service and in-service workforce training will be provided addressing the compassionate and therapeutic management of special needs offenders.

In order to determine trends and find solutions, TDOC will increase involvement and attention to reentry issues with inmates as well as increased collaboration with other state agencies indirectly or directly impacted by recidivism in Tennessee.

TDOC will review best practices of other state correctional Departments and service agencies to generate creative and effective offender treatment/training and management practices within the department.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

TDOC continues to receive funding from federal grants by maintaining compliance with Title VI, submission of the Violent Offender Incarceration and Truth in Sentencing (VOITIS) report, the Residential Substance Abuse Treatment (RSAT) report, and the timely submission of the quarterly Death in Custody reports. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. Enforcement of guidelines is necessary for responsibility and accountability in distribution and utilization of funds. Use data to support selection decisions and set priorities in accordance with mission and goals of the institution.

VOITIS funds must be used by September 30, 2006 and TDOC is actively working with the Select Oversight Committee on Corrections, the Division of Capital Projects, as well as a professional consulting group to select a prison building site and expend available state and VOITIS funds by the federal deadline.

Funding has been received in the form of a federal grant from the Department of Justice for a Serious and Violent Offender Reentry Initiative. TDOC received \$1,064,000 to develop a three-year reentry initiative. This initiative is in its first year of operation.

TDOC inmates are responsible for the fees associated with copying of records, medical co-pays, positive drug screens, prosthetic devices, lost keys, and identification cards

Revenue is also created through the charge for copies to non-state agencies, the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones.

Another source of revenue is through the provision of institutional commissaries that sell products to inmates.

Sex Offender Treatment Program inmates purchase their own program materials to offset costs of the program.

Medical services collect a co-pay for some medical access.

Another source of revenue is created through the services of TRICOR. This service assists in funding other services within TDOC.

Recycling efforts at TDOC institutions reduce the cost of waste disposal and produce revenue at the same time.

Increasing the number of work-release inmates would also produce additional revenue.

Requestors are charged for materials, time, and delivery (per TDOC policy 114.03) for requested materials and/or data that require employees to take time away from their normal duties.

Collaborative projects with other relevant agencies or institutions have been developed so costs may be shared and state funds are more efficiently utilized. For example, TDOC is working with the Vanderbilt Institute for Policy and Planning Studies, Center for Evaluation, Research, and Methodology on several research and evaluation projects including a research brief on correctional officer stress. TDOC is also working with BOPP on several projects, including an examination of the causal factors associated with Tennessee's violator return rate. TDOC also continues to interact with community based organizations (such as offender/victim based advocacy groups) to seek common goals and joint funding.

The Department also makes a concerted effort to utilize other state Departments for services rather than going through the private sector.

The Tennessee Department of Correction Special School District receives federal funds each year to supplement the Title I and Special Education classes provided. The funding received is used to purchase books and other classroom equipment solely for these classes. These monies also pay teacher salaries and provide them with professional training.

TDOC facilities currently use USDA commodities.

TDOC receives reimbursements from the National School Nutrition Program.

Each Institution uses TDOC farm produce in order to decrease overall food costs.

The department plans to continue to secure grants from NIC (National Institute of Correction), OJP (Office of Justice Programs), SAMHSA (Substance Abuse and Mental Health Services Administration), NIDA (National Institute for Drug Abuse), pharmaceutical companies, universities, and other sources.

TDOC receives federal funding from Edward Byrne Memorial State and Local Law Enforcement Grant Program and the Residential Substance Abuse Treatment (RSAT) Grant Program to provide in-prison treatment services. The Department will collaborate with other state and local agencies to maximize federal funding opportunities.

### **Means of Avoiding Unnecessary Costs and Expenditures**

TDOC Central Office reviews processes and procedures annually; identifying and implementing cost reductions and opportunities for service enhancement and/or public/private partnerships. TDOC also conducts annual inspections and financial internal audits in addition to the American Correctional Association audits conducted every three years to ensure proper utilization of all state and federal funds.

The Department often leverages staff skills and knowledge instead of increasing the use of contract vendors. For example, Planning and Research offers in-house consulting (e.g., database development and research specialization) to other areas within the Department upon request.

TDOC partners with other state agencies when participating in job fairs, service or instrument development, grant application, and any other cost related ventures. TDOC also frequently coordinates employee travel schedules to maximize use of state cars and teleconferencing is used when appropriate and available to save money on travel costs. TDOC is increasing the use of less expensive, online training resources, to enhance staff knowledge and skills.

The Fiscal and Budget division generates or provides access to expenditure reports and property inventories that are utilized to monitor costs and project annual expenses. Reports are reviewed daily for many areas of institution operation (commissary, receivables, payables, inventory, etc.) to ensure that costs are necessary and have been processed according to policies and procedures.

All contracts, requests for proposals and purchase authorizations are closely scrutinized to ensure that services are necessary to meet the Department mission, and that state funds obligated under these contracts are within available funding. Expenses and services are monitored and questioned costs are resolved expeditiously. These contract monitoring procedures ensure quality and productivity and allow for the timely assessment of liquidated damages for substandard performance.

Utility billings are routinely reviewed to verify accurate and correct charges to each facility. Energy contracts are negotiated so that consumption can be examined and costs are minimized wherever possible. The Department is in the process of reviewing Requests for Proposal (RFP) for an energy savings performance contract. This performance contract is expected to save money by reducing energy consumption at various institutions.

Statewide contracts established by Department of General Services (DGS) are utilized in addition to contracts established by TDOC in order to ensure that goods are purchased at the lowest possible cost.

Specific technologies that offer significant cost savings are evaluated by conducting specific pilot projects to demonstrate the effectiveness and learn the obstacles that effect implementation, including but not limited to a geo-thermal pilot project at Northwest Correctional Center.

Protocols are established to ensure management review of purchases requiring approval from senior management.

All legislative and criminal justice subscription services that are ordered are reviewed to determine if the information may be accessible from other resources.

Release eligibility dates and expiration dates for Tennessee incarcerated felons are determined in an accurate and timely manner. TDOC has developed methods to submit certification of eligible persons for determinate probation and parole to the Tennessee Board of Probation and Parole more efficiently. When offenders are eligible for discharge through probation, parole or expiration of sentence, the cost of their incarceration is reduced.

Ideas are explored in providing pre-release initiatives at each TDOC institution to avoid transferring of inmates to designated pre-release facilities.



TDOC will continue to evaluate specific engineering technologies that offer significant cost savings by conducting specific pilot projects to demonstrate the effectiveness and to learn the obstacles that effect implementation.

TDOC will continue to thoroughly investigate energy saving proposals to eliminate ineffective projects or initiatives.

TDOC will make its safety plan as simple and effective as possible to avoid unneeded and ineffective effort.

In terms of building projects, TDOC will make the procurement procedure as simple and effective as possible to avoid unneeded and ineffective effort.

The utilization of management processes will be used for health services, specialty consults, and pharmacy services to keep costs in check by approving only necessary and cost-effective procedures and medications.

### **Future Challenges and Opportunities**

The department will review, process and monitor public requests to conduct research its institutions expeditiously in a time of diminishing resources. All requests for survey completion from private researchers, federal, state, and local publications, public and non-profit agencies and publications, etc. will continue to be reviewed and processed by the P&R section in a timely manner.

Requests for TOMIS data and data subsets from persons internal to TDOC and persons external to TDOC will be reviewed and clarified as necessary and processed in a timely manner despite limited funding for staff training and recruitment.

The department will continue to collect, compile, edit, publish, and distribute the TDOC annual report making best use of the limited funds available for the project.

TDOC will continue to maintain and update its policies as well as monitor, track, and approve Corrections Corporation of America (CCA) policies in light of an additional facility and limited staff resources.

Development and monitoring of a new TDOC Strategic Planning document according to the new guidelines from the Department of Finance and Administration will provide a challenge due to limited staffing resources and significant changes in reporting format.

TDOC may have difficulty maintaining adequate bed capacity for sentenced felons with limited funding.

Continuous review of existing inmate training (i.e., education, work, substance abuse, mental health, etc.) will identify needed restructuring and/or modifications despite limited funding. The department will continue to expand technological training needs with limited human resources in TDOC and OIR.

TDOC plans to continue enhancing the process of inmate treatment/training assignment and participation by identifying inmate needs through the classification process. This is a challenge

due to the increasing felon population in Tennessee and the strain that this growth places on reception facilities.

TDOC will continue to conduct successful and complete internal investigations regardless of the increasing inmate population and requests for assistance, with current staffing level.

TDOC will continue the development and implementation of a more intensive pre-release initiative for all offenders being released from TDOC. This poses a challenge in that some areas around TDOC prisons do not provide an ideal environment for meeting the pre-release needs of inmates, such as job or volunteer availability.

TDOC will develop and maintain a library of key correctional publications for Central Office with limited technological resources and limited staff time allocation to this activity due to other, more pressing responsibilities.

Workshops will be conducted at least yearly for all the Department's human resource staff to evaluate process and share information. This is a challenge due to limited funds for training. Also, TDOC intends to continue to enhance training in legal issues and responsibilities. This would allow TDOC the opportunity to maintain fairness and consistency in employee discipline.

Designing better and more cost efficient ad campaigns for recruitment and exploring ways to recruit difficult to fill positions will provide an opportunity to increase the quality and tenure of correctional employees.

An opportunity to reduce overall training and recruitment costs is to explore ways to increase employee retention, enhance morale, and attract competent employees.

Due to the increase in the number of elderly inmates in Tennessee, TDOC will develop strategies to prepare for the aging prison population in terms of health, psychological, facility, dietary, and legal needs.

TDOC will develop new concepts to promote the department in order to enhance the public image, recruitment possibilities, and community relationships. Continuing to build relationship with statewide media outlets will possibly minimize response time and improve information dissemination.

TDOC plans to identify a means of replacing the warehouse inventory system. The current system was purchased as an emergency fix to the rollover problems related to the year 2000 and will not be viable much longer in its current, diminished form. This is a challenge due to limited resources and funding.

TDOC plans to develop an application that makes contracts in a portable document format (PDF) so that all contracts are available for ease of distribution throughout the TDOC system via e-mail and eventually the state's Intranet. This is an opportunity to ease the distribution documents throughout the TDOC system thereby reducing overall expenditures.

The Document Storage and Retrieval System project and the eTOMIS projects introduce new, improved, and streamlined ways of doing business at TDOC. However, these new projects provide a training challenge as they introduce not only new technological applications, but also cultural and business process change, thereby requiring a new paradigm of systems training

delivery through the Tennessee Correctional Academy. This will be a challenge due to the limited resources available for training.

Evaluating the potential ramifications of centralizing the procurement functions throughout the Department may provide for a more efficient and cost effective means of purchasing, This will be an opportunity to ensure that purchasing rules and regulations are followed throughout the Department thereby eliminating excess and unnecessary expenditures.

Plans are being developed for a process for providing updated legislative information to TDOC facilities. This will provide the opportunity to improve communication, increase awareness of new legislation, and monitor the specific needs within the institutions.

Revise the annual TDOC Legislative Summary to provide additional information that might be pertinent to a specific section of the Department. This will be an opportunity to improve communication, allow for possible impact study, and to better address the specific needs within the Department.

The TDOC transportation system must expand to meet the demands of the growing felon population in Tennessee. This is a challenge due to limited funding and resources.

TDOC will continue to confront and address STG activity as well as effectively train staff to recognize and report all gang-related activities as they occur. This is a challenge due to limited resources.

TDOC will continue to add additional community service work crews when possible despite limited staff resources and continue to negotiate energy performance contracting to study consumption and minimize costs wherever possible despite limited resources.

Regardless of limited funding, TDOC will continue to keep current technologies involved in facility design, construction, and operation to reduce cost and improve efficiencies.

TDOC will continue to adjust the department's policy and procedure and operational compliance with ACA standards, National Fire Prevention Association (NFPA) Life Safety Codes, health and safety standards, federal regulations and accounting procedures as those requirements are altered. This is a challenge due to limited resources.

An opportunity to improve the food service initiative for inmates in TDOC correctional institutions is providing by improving the Board of Director (Cook Chill Review) process through enhanced Departmental participation and reviewing other correctional or jail entities that utilize bulk food production and distribution for cost and nutrition improvement opportunities.

TDOC will continue to expand institutional efforts to intercept illicit drugs from entering the institutions by utilizing electronic drug detection equipment at entrances and key locations at each facility. This may include a review of new drug and contraband detection technology for use within the institutions This is an opportunity to further reduce the presence of drugs in TDOC facilities.

TDOC will continue to track offenders released from in-prison residential treatment training. This is an opportunity to better understand the relationship between residential treatment and recidivism.

TDOC will continue to pursue submission of legislation that requires drug testing of all prospective employees, after accident testing and random testing of all staff. This is a challenge due to limited human resources.

TDOC will continue to review and strengthen sanctions for testing positive on an institutional drug screen. Additionally, TDOC will continue to randomly test 10% of in-house population. This is an opportunity to reduce the presence of drugs in TDOC facilities and enhance the impact of drug treatment courses.

TDOC plans to employ advanced diagnostic techniques for special needs offenders in order to effectively and efficiently serve therapeutic and supervision needs.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The performance data is verified in several ways.

The TOMIS system is automated and allows for instant notification of information. The data on TOMIS is generally 80% to 90% accurate and the system has extremely high security with access only for authorized users. Additionally, access to educational information on TOMIS is restricted to qualified staff. The education files are audited frequently by the Department of Education.

All information is validated by periodic comparison (face validity) to data from other information sources. Auditors and inspectors within and outside the Department validate all information used in performance measures. Information is validated by reports received from DOP and F&A. All reports generated as a result of internal or external audits and tracking procedures will be sent to central office senior management staff, and/or to the warden's office in the institution for verification or management action.

### **329.04 State Prosecutions Account**

The State Prosecutions Account reimburses counties for expenses involved with the housing of state felons or other statutorily authorized felony expenses.

### **Statutory and Constitutional Objectives**

The State Prosecutions section of TDOC has the statutory authority to contract on behalf of the Department of Correction with counties for the housing of state felony offenders. Pursuant to TCA 4-3-603 and TCA 41-8-106, this office: 1) may contract with county governments for the housing of convicted felons to alleviate conditions of overcrowding within department facilities, 2) contract with counties who choose to house convicted felons under the County Correctional

Incentives Act, and 3) may process payments to courts for judicial costs related to the prosecution of felony defendants pursuant to TCA 40-25-129 through 142.

### **Mandated and Optional Services and Means of Providing Them**

The Judicial Cost Accountant works with county officials to ensure that counties are accurately reimbursed for expenses associated with state felons housed in the local jails. The Judicial Cost Accountant also ensures that counties are reimbursed for certain other felony expenses that are authorized by state law.

There are several conditions under which the state is liable for the cost of housing felons as well as reimbursement of counties for certain judicial costs: 1.) felons are sentenced to serve their time in the local jail. (Tennessee Code Annotated permits judges to sentence felons to serve their time locally in certain circumstances), 2.) counties may contract with the state to house felons sentenced to the Tennessee Department of Correction (TDOC), 3.) counties are reimbursed for housing felons who have been sentenced to TDOC and are awaiting transfer, and 4.) counties are reimbursed for court costs associated with felony charges, transporting inmates, extradition, witness fees, jury boarding, and emergency medical expenses.

### **Performance Standards**

1. Process invoices promptly.

### **Performance Measures**

1. The percentage of invoices processed within 45 days of receipt.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

Counties do not always submit documents for payment in a timely manner. Final cost settlements for the end of the fiscal year are not always received within required timeframes. The board bills submitted by the counties can only be randomly audited due to the limited resources available.

### **Means of Overcoming Obstacles**

The TDOC Judicial Cost Accountant will work with county officials, County Technical Assistance Service (CTAS), and the Comptroller's Office in resolving timeliness issues. Additional personnel will be requested to provide a monthly audit function.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no known federal or other sources of funding to reimburse counties for the costs associated with housing state felons at the local level, or for reimbursing counties for judicial costs related to cases involving state felons.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The individual counties review the monthly board bills, and adjustments to the assigned inmate population data are made. The counties submit the board bills to TDOC, which then reviews the payment requests and works with the counties to resolve differences.

## **Future Challenges and Opportunities**

The Department's State Prosecutions office, Fiscal Services office, and Management Information Systems office have been jointly working on a new means of obtaining inmate assignment information from the Tennessee Offender Management Information System (TOMIS). With the support of MIS, the monthly board bills will be generated with a new set of protocols that will reduce the number of manual adjustments needed on the monthly board bills. This will result in a more accurate county board bill.

Although the number of inmates housed in local jails has increased over the years, there have been no additional staff to support the increased workload. Audit functions are therefore very limited at present. Additional resources will be sought to allow the department to fully audit county reimbursements. Random audits have resulted in cost savings to the department.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

Reports will be disseminated to appropriate middle and senior management staff for review.

## **329.32 Major Maintenance**

Management Information Systems (MIS) Integrated Technology Services (ITS) is responsible for the repair and preventive maintenance of security electronic systems, including fence detection systems, locking control panels, alarm annunciation panels, closed circuit TV, paging and intercom systems, mobile mapping systems, and installation and maintenance of the department's computer systems.

## **Statutory and Constitutional Objectives**

Not Identified

## **Mandated and Optional Services and Means of Providing Them**

While law does not specifically mandate most MIS ITS services, all services are required in order to support the safe and secure operation of the state's correctional system. Nineteen ITS staff contribute to major maintenance support of the institutions' electronic security systems, and computer systems needs. The staff has multiple skills including network and computer hardware and software knowledge as well as electronics skills.

## **Performance Standards**

1. Resolve all security system calls within 48 hours.

## **Performance Measures**

1. Percent of security system calls resolved within 48 hours.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

Recruiting and retaining technically qualified field staff continues to be the greatest obstacle to delivering facility security systems and network services, while the weather's effect on security systems introduces an uncontrollable element into any planned service delivery. Some facilities still have security systems with non-replaceable parts; the entire system has to be replaced on an emergency basis when such electronic equipment is damaged.

## **Means of Overcoming Obstacles**

In ITS, position reclassification is being requested to more appropriately recruit and compensate for the specific skills required in a prison environment. Capital project designs are providing for standardized security systems to help reduce costs for maintenance parts, and reduce learning curves required to know multiple vendors' systems.

Annually solicit for needed projects from the field and central office staff. Additionally, projects will need to be prioritized accordingly.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are currently no known sources of federal or other non-state funds that are available for the



on-going repair of institution security systems or other Major Maintenance projects.

### **Means of Avoiding Unnecessary Costs and Expenditures**

MIS ITS seeks to keep expenditures at a minimum through strict use of state contracts for equipment and software procurement. The Tennessee Department of Correction (TDOC) normally uses existing staff skills and knowledge instead of outside contract vendors to repair and maintain security systems. This has saved the State of Tennessee hundreds of thousands of dollars.

Each project will be thoroughly reviewed in order to assess necessity as well as prioritized accordingly.

### **Future Challenges and Opportunities**

Current capital projects include fence detection system replacements at five institutions (Lois M. Deberry Special Needs Facility, West Tennessee State Penitentiary, Northeast Correctional Complex, Turney Center Industrial Prison and Farm and Northwest Correctional Complex), a fence and control system replacement at Riverbend Maximum Security Institution, and control system replacements at West Tennessee State Penitentiary and Turney Center Industrial Prison. These will provide an opportunity for ITS to assume greater responsibility for installing and maintaining standardized, programmed security control systems. ITS will be challenged to maintain a skilled and credible staff that can continue to respond in a timely manner to security system failures. Future capital projects will include the replacement of fence and control system replacement at the remaining institutions.

As institutions become older, the increased necessity of routine upkeep and repair will place a strain on available resources.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

Management staff in the Division of Administration will review the reported results.

### **329.50 Sex Offender Treatment Program**

The Tennessee Sex Offender Treatment Board's (SOTB) mission is to establish a statewide network of service providers and community supervisors who possess the competency necessary to effectively treat and manage individuals who have been determined to be sexually deviant and present a risk to community safety.

Accomplishments for Fiscal Year 2002-03 include coordination of the 6<sup>th</sup> Annual Treatment and Supervision Conference, a three-day statewide training conference with more than 400 professionals in attendance. This conference is now recognized as an outstanding training opportunity for professionals to address sex offender-specific interventions and management. SOTB members also provided training and consultation to multiple state and private community based agencies throughout Tennessee, a resource that might be otherwise unavailable. Additionally, members provided consultation to other states that are establishing their own boards.

The Board initiated the development of a web page to enhance public access to the board as an information resource and educated members of the judiciary regarding TCA requirements and SOTB mandates and resources, resulting in an increase in consultancy services with judges to provide insight into cases and appropriate referral sources.

STOB members expanded the board's information and referral base in response to increased demand for juvenile sex offender treatment and management and promoted an increased use of sex offender-specific polygraph assessments as part of treatment and community monitoring. Members also facilitated increased networking and dialogue among treatment providers, community supervisors and SOTB members. Finally, STOB members continued to modify the statewide service provider directory to further clarify the board's mission and meet recommendations made by state and community professionals.

### **Statutory and Constitutional Objectives**

TCA 39-13-704 creates, in the Department of Correction, a sex offender treatment board consisting of 13 members.

### **Mandated and Optional Services and Means of Providing Them**

TCA 39-13-701 through 39-13-709 mandate the establishment of a standardized treatment approach to sex offender population through the establishment of a standardized evaluation and identification process for sex offenders. It also requires: a) the creation of a board of professionals with the expertise and interest necessary to carryout the charges mandated; b) the establishment of a network of competent professionals who are capable of treating sex offenders and who the judicial branch will utilize; and 3) a reimbursement protocol for approved service providers who provide care to indigent offenders.

### **Performance Standards**

1. Increase the number of treatment providers receiving annual training.

## **Performance Measures**

1. Number of treatment providers receiving annual training.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
400	430	460

## **Obstacles to Meeting Objectives and Delivering Services**

Limited resources due to lack of members and the increasing demands on the board severely impairs the board's ability to address issues and tasks.

## **Means of Overcoming Obstacles**

TDOC will create change and obtain support through evidence that substantiates accomplishments.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

TDOC will attempt to secure funding from the National Institute of Corrections, Office of Justice Programs or the Board of Probation and Parole and educate judges to reemphasize the important role they play in generating revenue for the board.

## **Means of Avoiding Unnecessary Costs and Expenditures**

TDOC will increase the competency level of treating professionals and community based supervisors so they understand the dynamics associated with managing this special population. The department will closely monitor those cases that are reported to be indigent and seek a reduction in technical violations to reduce cyclical expenditures. Improved case management would reduce victimization and consequently reduce the associated costs. The establishment of an SOTB web page would reduce costs of mailings.

## **Future Challenges and Opportunities**

An SOTB web page would increase public access to resources and information. Obtain support and resources to design and implement to the web page. This would be an opportunity for easier dissemination of information and increased awareness of the SOTB. Necessary resources that the SOTB requires to further enhance public safety must be obtained and maintained . This would also be an opportunity to increase the public trust and enhance the understanding of the services provided.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The board does periodic audits to ensure accuracy through telephonic communication and peer reporting. Community supervisors and members of the judiciary branch will report concerns and/or make inquiries about various issues. There is an annual review of the judicial and TDOC collections and expenditures and inspectors within and outside the department validate this information. Finally, the TDOC Planning and Research section validates this information.

## **329.98 Federal Construction Grants**

Federal Construction Grants is an account used by the department to draw down federal grant funds associated with the construction of additional prison beds.

## **Statutory and Constitutional Objectives**

Not Identified

## **Mandated and Optional Services and Means of Providing Them**

This allotment code was established to account for the draw down of Violent Offender Incarceration and Truth-in-Sentencing (VOITIS) grant funds awarded to the Department of Correction (TDOC). These funds were awarded to the department over several years and are to be used exclusively for the construction of new prison beds for violent offenders or infrastructure support of the prison system. The federal construction grant is appropriated through the State's annual Capital Budget process. There are no new VOITIS grant funds available. The existing grants must be expended no later than September 30, 2006.

## **Performance Standards**

1. Draw at least 75% of VOITIS funds for construction of capital projects by the end of FY 2004-2005.

## Performance Measures

1. The percentage of funds drawn from VOITIS funding by end of FY 2004-2005.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2.8% *	30% *	75%

\*This portion of funds is distributed to TDOC as well as Department of Children's Services (DCS) with the majority of the funding going to DCS.

## Obstacles to Meeting Objectives and Delivering Services

The delay in site selection process for location of a new prison(s) has meant that little of the VOITIS funds have been spent. The state-matching requirement for the VOITIS project(s) must be expended before the draw down of federal grant funds can occur.

## Means of Overcoming Obstacles

A final decision on location(s) of new prison(s) soon will ensure that sufficient time remains to design and construct new facilities before the deadline on expenditure of VOITIS funds.

## Means of Maximizing Federal and Other Non-State Sources of Revenue

TDOC staff regularly communicate with federal government contacts to ensure that existing grant awards are used in accordance with federal rules and regulations, and that any new funding being offered by the federal government for construction of prison beds is applied for. TDOC continues to work with other officials on the site selection process so that TDOC can ensure that facilities are designed and constructed before the VOITIS expenditure deadline of September 30, 2006.

## Means of Avoiding Unnecessary Costs and Expenditures

TDOC and Finance and Administration construction staff review invoices to ensure expenditures are appropriate, and that services have been properly provided.

## Future Challenges and Opportunities

Any construction projects intended to utilize VOITIS funds as part of the funding source must be completed by September 30, 2006 in order to draw down the federal funds. This is a challenge due to the complexity of the site selection process.

## Performance Data Schedule

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

Monthly accounting reports from STARS are used to verify internal reports and tracking sheets.

## **329.99 Sentencing Act of 1985**

The Sentencing Act of 1985 was passed by the General Assembly to provide funding for new legislation that increases periods of incarceration in correctional facilities. This is an account used by the department to administer those funds.

## **Statutory and Constitutional Objectives**

TCA 9-4-210 requires appropriation of estimated operating costs of any laws resulting in a net increase in periods of imprisonment in state facilities.

## **Mandated and Optional Services and Means of Providing Them**

During the Special Session on Corrections in 1985, the General Assembly passed legislation that included the Sentencing Act of 1985. TCA 9-4-210 requires that for any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state correctional facilities, there is to be appropriated from recurring revenues the estimated operating cost of that law. The amount appropriated for operating costs, in current dollars, is based upon the highest cost of the next ten years, beginning with the year the additional sentence to be served impacts the correctional facilities population. Funds accumulated through the Sentencing Act of 1985 are used for the construction of new beds resulting from laws imposing additional sentences or sentence lengths, or cancellation of construction bonds authorized but not yet sold.

## **Performance Standards**

1. The Tennessee Department of Correction (TDOC) Budget Office will appropriately estimate the operating costs of 100% of the proposed laws or amendments affecting revenue.

## **Performance Measures**

1. The percentage of fiscal notes attached to proposed laws or amendments affecting revenue or funding for the department of Correction.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

Limited personnel resources can affect the timeliness of service delivery. An obstacle to development of fiscal notes is also the lag time that can occur if a fiscal note requires detailed statistical information that is not captured by the department's offender information system (TOMIS).

## **Means of Overcoming Obstacles**

Management of existing staff resources will be used to prioritize workloads and meet objectives. If statistical information necessary to compile fiscal notes is not available from TOMIS, the Budget Office will coordinate with other agencies in order to obtain information necessary to complete requested fiscal notes.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

This allotment code provides for the accounting of state funds generated by the passage of legislation that increases incarceration costs as prescribed by the Sentencing Act of 1985. No federal funds or other sources of revenue are authorized under this statute.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Funds appropriated under the Sentencing Act of 1985 are transferred by the Department of Finance and Administration (F&A) to the appropriate capital projects fund each year. Funds not transferred remain unexpended and are carried forward into the next fiscal year until funding is determined by F&A to be needed. Expenditure of the funds or redemption of bonds is administered by F&A in compliance with state law.

## **Future Challenges and Opportunities**

The introduction of new legislation each year will continue to pose a challenge to develop accurate fiscal notes in a timely manner. This is especially true for laws that propose new offenses and no data exists that can be referenced to examine past occurrences of the proposed offense.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.



## **Data Verification**

Fiscal notes depend on a variety of data sources: 1) population projection data is monitored on a monthly basis by DOC Planning and Research and by a professional forecasting consultant, 2) the TOMIS system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users providing a high level of security, 3) the Fiscal Review Committee staff and the Administrative Office of the Courts provide statistical information for offenses not currently included in TOMIS (misdemeanors, judicial system information, probation/parole, children's services, etc.), and 4) statistical data is reviewed by Fiscal Review Committee staff.

## **Tennessee Correction Academy**

### **329.06 Tennessee Correction Academy**

The Tennessee Correction Academy, established in 1984, located in the city of Tullahoma, serves as the State's primary training and staff development center for Tennessee Department of Correction (TDOC), Probation and Parole, and Department of Children's Services. Each year, over 7,000 people attend the Tennessee Correction Academy's numerous preservice, inservice, or specialized training classes. Special training classes are also provided to local jurisdictions, which provides revenue to the department. In 1993, the Tennessee Correction Academy became the second correctional training academy in the nation to be fully accredited by the American Correctional Association.

## **Statutory and Constitutional Objectives**

TCA 41-1-407 mandates training of correctional personnel and TCA 41-1-116 establishes the qualifications of correction officers.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-1-407 mandates that all correctional personnel receive adequate and appropriate training specific to their duties and responsibilities. By TDOC policy, the Tennessee Correction Academy provides preservice training, inservice training, and specialized training classes for all affected personnel in accordance with the standards of the American Correctional Association.

TCA 41-1-116 mandates that all persons employed as a correctional officer must pass a physical examination and be determined to be free of any apparent mental disorder. The Tennessee Correction Academy is, by policy, responsible for carrying out both of these requirements.

## Performance Standards

1. Increase total training hours delivered for preservice, inservice and specialty course personnel by 27,355 hours.
2. Decrease the number of deficiencies received on the annual Fire Marshall's Report.
3. Decrease the number of deficiencies received on the Internal Audit Results.
4. Increase the Annual Inspection Results score.

## Performance Measures

1. Total training hours delivered for preservice, inservice, and specialty course personnel.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
428,499	455,854	455,854

2. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	1	0

3. Internal Audit Results, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	2	0

4. Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
99%	100%	100%

## Obstacles to Meeting Objectives and Delivering Services

Obstacles to meeting objectives include: decreases in state funding specific to training and professional development, significant reductions in the quality and quantity of qualified applicants, and increases in demand for services that outweigh Academy's capacity to house and train requested numbers.

## Means of Overcoming Obstacles

These aforementioned obstacles may be overcome in the following ways: seek and secure alternative funding for training and professional development through grants, technical assistance, etc., identify sources of additional funding for recruitment enhancement opportunities, and secure administrative mandates from the Commissioner's Office regarding training-based initiatives and involvement.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Tennessee Correction Academy generates revenue through the delivery of training programs to non-state adult and juvenile correctional/law enforcement agencies, (i.e., county and municipal juvenile detention centers, county and municipal jails, etc.).

## **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards.

## **Future Challenges and Opportunities**

Continue to examine all avenues available to deliver preservice and inservice training to all employees of the Tennessee Department of Correction, Children's Services, and Board of Probation and Parole. This is an opportunity to increase employee skills and retention as well as decrease the overall cost to the department. The Academy will also continue to explore and seek funding to upgrade all living areas and classroom space. This is a challenge because of the scarcity of additional funds for facility improvements.

The Academy will conduct ongoing reviews of all lesson plans to ensure the most updated material is available. This is an opportunity to ensure staff receives the best training and skill development as new innovations and requirements are implemented by TDOC. Initiatives toward the professional development of new and experienced employees to their greatest potential in accordance with American Correctional Association standards and applicable policies and procedures will be intensified. This is an opportunity to ensure the continued Accreditation of TCA and to decrease the overall turnover rate within the department.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The department's computer system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is very high. Information will also be validated by Planning and Research. Inspectors within and outside the department validate this information and students are tracked by number of training hours completed annually. American Correctional Association standards require minimum training hours according to job classification.

## **Institutional Operations**

### **329.11 Brushy Mountain Correctional Complex**

Brushy Mountain Correctional Complex (BMCC), located in Morgan County is comprised of Morgan County Regional Correctional Facility in Wartburg and Brushy Mountain Prison in Petros, with a combined inmate capacity of 1,603. The two were consolidated in 1997 by TDOC to streamline the department and reduce expenditures. BMCC is a multi-mission institution. It has the lowest employee turnover rate and the lowest inmate incident rate in the state. It also supports one of the largest volunteer initiatives in an institution.

### **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

### **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. In adherence to this process, each inmate entering TDOC custody is classified within the first 30 days. Inmate's classification level is reevaluated annually. BMCC serves as the reception center for males in TDOC's custody in the Eastern Region. Male felon offenders are first classified in this institution. Classification centers evaluate inmates entering the correctional system. During the classification process each inmate completes various evaluations which provide information concerning the inmates physical and mental health, work and training experience, educational background, religious affiliation, and family background. Based on these evaluations decisions are made concerning the most appropriate institutional placement or special requirements of each inmate.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

BMCC provides other psychological health services as well. BMCC offers a multitude of psychologically based programming that eligible inmates may attend such as cognitive-behavioral therapy and anger management. As another optional service, treatment or classes aimed at easing the psychological stress of reentry to the community are offered to all eligible inmates before release. Additionally, BMCC offers a therapeutic community that is especially designed to help inmates recover from drug and alcohol addictions.

TCA 41-21-238 mandates that educational classes and technical-vocational training are available for TDOC inmates. Each inmate is eligible to participate in Adult Basic Education (ABE) if he has no verified GED or high school diploma. Enrollment in any of the vocational classes is open entry, but requires a high school diploma or GED.

BMCC provides optional education and vocational services as well. Inmates who complete the required hours and coursework are eligible for U.S. Department of Labor certification in the applicable course.

## Performance Standards

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
92%	50%	47%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,697	1,697	1,650

3. Institutional escapes.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2.52%	2.30%	2.30%

5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
9%	9%	9%

6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95.3%	96%	97%

7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3	3	2

8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
88	91	95

9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
14	10	5

### Obstacles to Meeting Objectives and Delivering Services

Major obstacles include the increasing male felon population and decreasing state and federal funds. Other obstacles include the increasing demand for health and mental health care services and decreasing availability of staff in specialty areas (i.e. vocational and academic instructors, food service staff, and medical staff).

### Means of Overcoming Obstacles

Major means of overcoming obstacles include increased involvement and attention to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. Additionally, the institution will review each area of business and operational practices annually and identify and implement cost reductions

and opportunities for service enhancement and/or public/private partnerships. BMCC will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. BMCC will seek alternate methods to enhance recruitment opportunities (i.e. through higher education facilities and wider range of advertisement). Finally, BMCC will pursue the re-classification of food service stewards to correctional food service officers with the same hiring and pre-service requirements and same pay.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. The inmates are responsible for the fees associated with copies of records as well as any purchases made in the commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the course. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. BMCC will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. The Department of Correction produces a 10 year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. BMCC will ensure all assigned personnel positions are filled to minimize overtime expense.

### **Future Challenges and Opportunities**

BMCC will continue to review recycling and composting initiatives to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. BMCC will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. BMCC will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of

growing felon populations. BMCC will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment, drug dogs, and random staff searches at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. BMCC will continue to randomly drug test a minimum of 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. BMCC will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. BMCC will monitor follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal and other inspection data.

### **329.13 Tennessee Prison for Women**

The Tennessee Prison for Women (TPW) opened in Nashville in 1898 and relocated to its present location in 1966. The institution is designated as Maximum Security and is a multi-mission institution. It is a reception and classification center which houses all levels of female inmates from those under death sentence to those assigned to work release. TPW is also an ACA accredited institution. In 1989, the present academic/vocational building was completed. In 1991, the new administration building was completed and in 1993 renovations were completed on the old administration building to house an expanded medical unit, a larger visitation gallery, private attorney visiting areas, a non-contact visiting area, a central control unit and various offices and meeting rooms. In 1999, Phase II construction began which increased the population to 775, and has resulted in the renovation of several buildings to accommodate the increase in population.

TPW offers academic courses that include Adult Basic Education, GED and special education. Vocational courses include vocational office education (typing and office management skills), cosmetology, culinary arts and building maintenance trades. TRICOR provides job opportunities through a TCAP (Tennessee Comprehensive Assessment Program) test distribution center, Data Entry services and the TNCare Hot Line. Inmates who meet TDOC criteria work in the community on work release with selected government agencies. TPW has community work crews that provide an assortment of community services including, General Services warehouse (distributes office supplies to various departments), Department of Transportation trash pick-up with primary responsibility to I-440 but can be dispatched to any area of Davidson County and



providing clerical/cleaning/grounds support to the Tennessee Highway Patrol, Metro Center Testing Center, and Rachael Jackson Building.

TPW has a weekend child visitation initiative at both the Main and Annex compound that has received national recognition, as well as a grandmother/grandchild visitation initiative. Also available is a pre-release and job readiness/life skills initiative entitled New Start, a contract multi-level course provided through the YWCA.

Special needs courses/training are provided in the areas of substance/sexual abuse and inmates also have access to a full range of psychological intervention. Treatment staff and volunteers work closely with inmates in treatments such as Alcoholics/Narcotics Anonymous, substance abuse groups, decisions workshops, co-dependency groups, stress management, anger management, and assertiveness training.

In addition to volunteers in the areas of special needs and recreation, TPW has a sizeable compliment of volunteers who interact with inmates by providing a variety of religious programs. Religious activities are coordinated by the prison's chaplain and include participation from area churches and representatives of most denominations and faiths. Weekly religious services are provided by the chaplain and outside groups, and special seminars and events are offered to the population.

### **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

TCA 41 – 1-201 requires the female unit of the state penitentiary to be a separate institution apart from the administration of the main prison and shall remain a separate unit of the Department of Correction.

### **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. In adherence to this process, each inmate entering TDOC custody is classified within the first 30 days. Inmate's classification level is reevaluated annually. TPW serves as the reception center for females in TDOC's custody. Female felon offenders are first classified in this institution. Classification centers evaluate inmates entering the correctional system. During the classification process each inmate completes various evaluations which provide information concerning the inmates physical and mental health, work and training experience, educational background, religious affiliation, and family background. Based on these evaluations decisions are made concerning the most appropriate institutional placement or special requirements of each inmate.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security

and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate. Special care is taken to meet any special health care needs or health issues requiring hospitalization.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

TPW provides optional psychological health services as well. TPW offers a multitude of psychologically based programming that eligible inmates may attend such as cognitive-behavioral therapy and anger management. As another optional service, treatment/training aimed at easing the psychological stress of reentry to the community are offered to all eligible female inmates before release. Treatments/courses that are specially designed for low-functioning inmates are also offered to persons incarcerated in TPW. Additionally, TPW offers a therapeutic community that is especially designed to help inmates recover from drug and alcohol addictions.

TCA 41-21-238 mandates that TDOC provides educational classes and technical-vocational training for all TDOC inmates. In adherence to the mandate, each inmate is eligible to participate in Adult Basic Education (ABE) if he or she has no verified GED or high school diploma. There is no age limit to participation if the former criteria are met. Participation in any of the vocational courses is voluntary, but requires a high school diploma, GED, or specialty test to ensure participants possess adequate academic skills to complete the course. Inmates who complete the required hours and coursework are eligible to test for and obtain cosmetology/cosmetology instructor license.

## **Performance Standards**

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escape.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

### 1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96%	85%	88%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

### 2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,331	1,000	800

### 3. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

### 4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1.29%	1.11%	1.11%

### 5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
69%	60%	60%

### 6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
93.4%	94%	95%

### 7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3	0	0

### 8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95	98	100

### 9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

## **Obstacles to Meeting Objectives and Delivering Services**

Major obstacles include increasing female felon population in Tennessee and decreasing state and federal funds. Other obstacles include increasing demand for health and mental health care services and decreasing availability of staff.

## **Means of Overcoming Obstacles**

Major means of overcoming obstacles include increased involvement and attention to reentry issues with female inmates as well as increased collaboration with other state agencies indirectly or directly impacted by recidivism in Tennessee. Additionally, the institution will review each area of Tennessee Department of Correction (TDOC) business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. TPW will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. TPW will seek alternate methods to enhance recruitment opportunities (i.e. through higher education facilities and wider range of advertisement). Finally, TPW will utilize volunteer staff who have appropriate certification to provide some tutoring/group services as well as the Field Training Officer and Mentor Program to enhance staff retention.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. The inmates are responsible for the fees associated with copies of records as well as any purchases made in the commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. TPW will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the

impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. TPW will ensure that all assigned personnel positions are filled to minimize overtime expense. TPW reduced food costs from \$2.93 per inmate/per day in 2001/2002 to \$2.39 per inmate/per day in 2002/2003 without impacting food services provided to the inmate. All supply requests and procurement requests are reviewed to assure that amounts ordered are not excessive. All employees are urged to turn off all lights in rooms not in use.

## **Future Challenges and Opportunities**

TPW will continue to review recycling and composting initiatives as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. TPW will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. TPW will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. TPW will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. TPW will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. TPW will ensure compliance with OSHA regulations and NFPA life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. TPW will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal and other inspection data.

## **329.14 Turney Center Industrial Prison and Farm**

Turney Center Industrial Prison and Farm (TCIP) is located in Only, Tennessee in Hickman County. Turney Center is a time-building institution with emphasis on prison industry. The security designation is close. The majority of beds are medium security.

Turney Center was initially built in 1971 as a facility for youthful offenders, but changed its mission soon after opening to a facility to house adult offenders. It was described as a treatment facility, which became the model for the Tennessee Department of Correction (TDOC). The inside compound encompasses 55 acres.

During the 1980's the mission changed making Turney Center accessible to any medium security inmate and it provided work oriented industrial and farming operations. Educational and vocational courses were reduced. The population was raised to 950. In 1995, a work stoppage resulted in an extended lock down until a new movement system was developed and the facility was re-opened.

Capacity is currently 1,136 and the security classifications range from medium to close. Five housing units are located within the enclosure including a 96-cell high security unit housing segregation and protective custody. Inmates are paid for assignments and may be assigned to industry, academic or vocational assignment as well as support services inside the main compound. Turney also hosts a minimum-security annex outside the secure perimeter which houses 152 inmates who are employed as farm crews, community service crews or support services for outside the perimeter.

## **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. To comply with this each inmate at TCIP must meet a reclass panel at least once every 12 months. This is done to evaluate the inmate's needs and to address those needs within the resources of the TDOC. The safety of the public, staff and other inmates must be considered in the training opportunities and jobs made available to inmates.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. While TCIP is not involved in the initial classification, they are mandated to provide medical, dental, and mental health screening performed by health-trained or qualified health care personnel on all inmates, upon the inmate's arrival at the facility. TCIP provides comprehensive health care services by qualified personnel to protect the health and well being of the inmates confined at the facility.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

TCIP provides other psychological health services. The institution offers psychologically based programming which an eligible inmate may attend such as courses in anger management and drug and alcohol treatment. In addition, TCIP provides crisis interventions, psychiatric services, and medication management to inmates based on the needs of the individual. Treatment services aimed at easing the psychological stress of reentry to the community are offered to all eligible male inmates.

TCA 41-21-238 mandates that TDOC provide educational classes and technical-vocational training for all TDOC inmates. In adherence to the mandate, each inmate is eligible regardless of age to participate in Adult Basic Education (ABE) if he has no verified GED or high school diploma. Participation in any of the vocational classes is voluntary. Specialty tests to ensure participants possess adequate academic skills to complete the course.

TCIP provides optional education and vocational services as well. Inmates who complete the required hours and coursework are eligible to test for and obtain cosmetology and other technical licenses (certificates though the department of education are issued for completing the courses).

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. TCIP provides a portion of these mandated services through security personnel and unit management. Security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Security and unit management functions as a cohesive team to assure proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-21-208 mandates TCIP to provide employment opportunities in jobs necessary for the daily operation of the institution. Participation in these jobs keeps the institution operating smoothly and efficiently, keeps the inmates occupied in meaningful tasks, allows the inmates to earn sentence credits and allows the inmates to earn a small salary thus maintaining a level of self sufficiency. The department facilitates the use of inmate workers in assisting local non-profit agencies and organizations in community projects. Also, the Tennessee Rehabilitative Initiative in Correction (TRICOR) provides employment opportunities in an industrial setting. These jobs develop and enhance marketable skills and increase employability in the private sector upon release.

TCIP provides a chaplain who supervises religious services and activities for the institution. Every effort is made to permit each inmate to participate in religious activities/services of their choice within policy guidelines. Security issues restrict how services are provided in segregation units. Numerous volunteers provide valuable religious activities throughout the year. The chaplain, unit management, security staff, medical staff and volunteers work together to provide crisis intervention for all inmates in cases of critical illness, and death, etc.

Recreational activities are provided for all inmates to promote health and well being and decrease inappropriate behavior. General populations utilize the ball-field, weather permitting or have access to the inside gym area. Provisions for softball, basketball, track, weightlifting, etc. or available during recreation time. Exercise pens are constructed in segregation units to provide exercise opportunities for segregated inmates. Various tournaments are scheduled throughout the year.

TCA 41-1-407 mandates that employees are adequately and appropriately trained in the particular skills required in performing the duties of their job. The training coordinator ensures the training

requirements are met through the Tennessee Correction Academy and other community based training that are duty specific for pre-service (new employees) and in-service (qualified employees).

## Performance Standards

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	94%	95%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,165	1,050	1,000

3. Institutional escapes total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1	0	0

4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
8.87%	6.00%	6.00%

5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
10%	11%	11%



6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
98.1%	98.3%	98.5%

7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3	1	0

8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
94	96	100

9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
6	3	0

### Obstacles to Meeting Objectives and Delivering Services

Major obstacles include increasing male felon population in Tennessee and decreasing state and federal funds. Other obstacles include the rural location of the facility that makes hiring and keeping quality personnel difficult.

### Means of Overcoming Obstacles

Major means of overcoming obstacles include reviewing each area of business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. TCIP will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. TCIP will seek alternate methods to enhance recruitment opportunities (i.e. through higher education facilities and wider range of advertisement).

### Means of Maximizing Federal and Other Non-State Sources of Revenue

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. TCIP will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of

TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. TCIP will ensure that all assigned personnel positions are filled to minimize overtime expense.

### **Future Challenges and Opportunities**

TCIP will continue to review recycling and composting initiatives as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. TCIP will continue with the natural gas project, making the institution no longer dependent on the Town of Centerville for this utility cost. This will result in significant dollar savings. TCIP will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. TCIP will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. TCIP will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. TCIP will ensure compliance with OSHA regulations and National Fire Protection Association (NFPA) life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. TCIP will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is

extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal and other inspection data.

### **329.16 Mark H. Luttrell Correctional Center**

Mark H. Luttrell Correctional Center (MLCC) is located in West Tennessee and is one of two female facilities in the state prison system. It was opened in 1976 as a male reception center. In November 1997, the institutional annex was converted to an all-female unit, which consisted of 120 minimum-security beds. In June 1999, the main compound was converted into an all-female institution, which has 320 beds. The security designation is close and the operating capacity is 436.

Some of the most significant milestones during the year include: maintained and improved vocational programs; recycling program realized a savings of \$7,200; updating of the Institutional Contingency Plan; and successful completion of the mock American Correctional Association (ACA) audit and successful review for the upcoming ACA audit.

### **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

TCA 41-1-201 requires the female unit of the state penitentiary to be a separate institution apart from the administration of the main prison and that it shall remain a separate unit of the Department of Correction.

### **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. MLCC is considered a time-building institution for female felons in TDOC custody. The inmates are first classified at TPW and are then transferred to this institution. The inmates' classification levels are reevaluated annually or as needed. During the re-classification process, each inmate is evaluated on mental, physical, and program needs for that particular inmate. Based on these evaluations, decisions are made concerning the most appropriate job or program for each inmate. To provide appropriate evaluations of special needs inmates, a team approach is used. The team keeps abreast of any updates and each member is knowledgeable of the classification procedures.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security

and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health program requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health program requirements of each inmate

MLCC provides other psychological health services as well. MLCC offers a multitude of psychologically based programming that eligible inmates may attend such as cognitive-behavioral therapy, anger management, substance abuse, relapsed prevention, and self esteem are available. Parenting classes are also available. A licensed clinical psychologist as deemed necessary provides individual counseling therapy. Programs that are specially designed for low-functioning inmates are also offered to persons incarcerated in MLCC. Additionally, MLCC offers a therapeutic community that is especially designed to help inmates recover from drug and alcohol addictions.

TCA 41-21-238 mandates that TDOC provide educational classes and technical-vocational training for inmates. In adherence to the mandate, each inmate is eligible regardless of age, to participate in Adult Education if she has no verified GED or high school diploma. Participation in any of the vocational programs is voluntary, but requires a high school diploma, GED, or specialty test to ensure participants possess adequate academic skills to complete the program.

Academic programs include Adult Basic Education, GED, and special education. Vocational programs include cosmetology, industrial cleaning, and carpentry. TRICOR provides job opportunities through a sport ball packing operation.

## **Performance Standards**

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

### 1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
50%	0%	80%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

### 2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
601	550	501

### 3. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1	0	0

### 4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0.2 2%	0.01%	0.01%

### 5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
27%	27%	27%

### 6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
93.7%	94%	95%

### 7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
10	6	0

### 8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
94	95	96

### 9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
23	20	17

## **Obstacles to Meeting Objectives and Delivering Services**

Major obstacles include increasing male felon population in Tennessee and decreasing state and federal funds. Other obstacles include increasing demand for health and mental health care services and decreasing availability of staff in specialty areas (i.e. vocational and academic instructors, food service staff, and medical staff).

## **Means of Overcoming Obstacles**

MLCC will increase involvement and attention to reentry issues with female inmates as well as increased collaboration with other state agencies indirectly or directly impacted by female recidivism in Tennessee. Staff will review each area of business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. Staff will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. Additionally, MLCC will seek alternate funding to enhance recruitment opportunities.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own program materials to offset costs of the program. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. MLCC will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions

concerning the TDOC's Capital Project and Building plans. MLCC will ensure that all assigned personnel positions are filled to minimize overtime expense.

## **Future Challenges and Opportunities**

MLCC will continue to review recycling programs to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. MLCC will evaluate institutional energy reduction goals and cost savings programs with a five year payback during the fiscal year despite growing felon populations. MLCC will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. MLCC will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. MLCC will continue to randomly drug test a minimum of 10% of the in house population. This is an opportunity to further reduce drug use in TDOC facilities. MLCC will ensure compliance with OSHA regulations and the National Fire Prevention Association (NFPA) life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. MLCC will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal and other inspection data.

## **329.17 Middle Tennessee Correctional Complex**

The primary mission at MTCC-Site 1 is to classify offenders entering or re-entering the Tennessee Department of Correction; the MTCC-Site 2 is responsible for providing training to inmates who are nearing the end of their sentences and are in the process of re-entering society. Both sites have inmates assigned to community work crews, along with permanently assigned inmates providing support services to the institution. MTCC has a capacity of 1,071 inmates, classified in custody levels from close to minimum trusty.

MTCC is also the location for the Central Transportation System for the Tennessee Department of Correction (TDOC). The Central Transportation division operates across the state, five days a

week, transporting inmates to various institutions and provides inmate transportation for court appearances, medical appointments, and funeral visitation within the Davidson County area.

### **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

### **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. In adherence to this process, each inmate entering TDOC custody is classified within the first 30 days. Inmate's classification level is reevaluated annually. MTCC serves as a reception center for male inmates in the custody of TDOC. Classification centers evaluate inmates entering the correctional system. During the classification process each inmate completes various evaluations which provide information concerning the inmates physical and mental health, work and training experience, educational background, religious affiliation, and family background. Based on these evaluations decisions are made concerning the most appropriate institutional placement or special requirements of each inmate.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

MTCC provides other psychological health services as well. MTCC offers psychologically based programming that eligible inmates may attend such as cognitive-behavioral therapy and anger management. Other treatment aimed at easing the psychological stress of reentry to the community is offered to all eligible inmates before release. Treatments/Classes that are specially designed for low-functioning inmates are also offered to persons incarcerated in MTCC.



Additionally, MTCC offers a therapeutic community that is especially designed to help inmates recover from drug and alcohol addictions.

TCA 41-21-238 mandates that TDOC provides educational classes and technical-vocational training for all TDOC inmates. In adherence to the mandate, each inmate is eligible regardless of age, to participate in Adult Basic Education (ABE) if he or she has no verified GED or high school diploma. There is no age limit to participation if the former criteria are met. Participation in any of the vocational courses is voluntary, but requires a high school diploma, GED, or specialty test to ensure participants possess adequate academic skills to complete the course.

## Performance Standards

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the total number of institutional escapes.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0% **	89%	93%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

\*\* no testing administered during this period.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,340	1,200	1,000

3. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
5	0	0

4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1.70%	0.01%	0.01%

5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
34%	35%	35%

6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
91.2%	92%	93%

7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	0	0

8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
91	93	95

9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
8	5	2

### **Obstacles to Meeting Objectives and Delivering Services**

Major obstacles include increasing male felon population in Tennessee and decreasing state and federal funds. Other obstacles include increasing demand for health and mental health care services.

### **Means of Overcoming Obstacles**

Major means of overcoming obstacles include increased involvement and attention to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. Additionally, the institution will review each area of business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. MTCC will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death

in Custody reports. Other sources of revenue are created through the services of the Commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the treatment. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. MTCC will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. MTCC will ensure that all assigned personnel positions are filled to minimize overtime expense.

### **Future Challenges and Opportunities**

MTCC will continue to review recycling and composting initiatives as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. MTCC will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. MTCC will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. MTCC will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. MTCC will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. MTCC will monitor follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities. MTCC will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff. Inspectors within and outside the department validate Fire Marshal and other inspection data.

## **329.18 Southeastern Tennessee State Regional Correctional Facility**

Southeastern Tennessee State Regional Correctional Facility (STSRCF), initially Bledsoe County Regional Correctional Facility, was placed in operation in 1979 as one of three regional prisons purposed by the Tennessee Department of Correction (TDOC) and approved by the legislature during the early 1970's.

The regional design and justification was based on overcrowding in the Tennessee Prison System and the need to separate hard-core, repeat offenders from the first and second time non-violent offenders. The mission of the facility at that time was to provide housing to adult inmates within a reasonable distance of the state's major metropolitan areas; to provide a system where inmates would be located within a days travel for family visitation; and to provide an expanded system where institutional resources were located in close proximity to the department's community field units on a system-wide basis. Inmates who were within five years of their release date were those targeted for enhanced treatment to better prepare them for community reintegration. The original program design has dramatically changed. The current facility houses 971 adult males with custody levels ranging from minimum to maximum.

Some of the most significant accomplishments during this year include:

In fiscal year 2002-2003, the recycling initiative generated \$4885.50 and saved \$6638.00 in landfill costs. Every effort continues to be made in reducing energy consumption below the usage of last year. There was an increase in the amount of money spent on electricity and propane, however, this was due to a rate increase and was not a result of an increase in energy consumption. The Ion Trap Mobility Spectrometer has been utilized every two weeks at various locations throughout the facility. Roadblocks, in cooperation with local law enforcement, were conducted quarterly. Complete institutional searches were conducted quarterly. The Violent Offender Program is continuing. The Phase II Sex Offender Treatment Program and Aftercare is continuing. Drug testing of 10% of the inmate population monthly is continuing. The warden has closely monitored all overtime usage. The electronic procurement system was fully implemented during this fiscal year. Four personal computers were replaced with more advanced models this fiscal year. The roofs on the remaining four housing units were replaced with 40-year warranty metal roofing. An annual review of all institutional policies and procedures was conducted. The reaccreditation audit was conducted in October 2002 and the institution received a score of 98.3%. The facility will be re-accredited in 2005 utilizing the 4<sup>th</sup> Edition standards. Files have been established for these standards and all primary documentation placed in the files. The annual Fire Marshal's Inspection was conducted with no critical deficiencies. The vacant GED

teacher was converted to a masonry instructor and the classroom converted to a vocational area. Air conditioning units were replaced in unit one.

## **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. As a time building institution, all inmates' classification recommendations are reviewed within 30 days of arrival from another institution. Prior recommendations, classification matters, inmate files, TOMIS information and inmate needs are reviewed to ensure the inmate is placed in appropriate treatment/training. An additional review of needs and progress are completed six months from the last reclass. Inmate classification as well as recommendations is reviewed at least annually. Optional services are provided to enhance an inmate's adjustment to incarceration as well as rehabilitation.

TCA mandates the welfare of inmates, which is provided by various support functions. Monies to provide the basic essentials as well as optional services are managed by the fiscal section. The fiscal section also manages the commissary and warehouse function to provide essential as well as optional supplies, equipment and commodities to the inmate population. The maintenance section provides the upkeep and maintenance of the buildings and grounds. Nutritionally balanced meals are provided daily by the food service section. The personnel section is responsible for maintaining a capable workforce to meet the custody, welfare, conduct and safekeeping needs of the facility.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. STSRCF provides a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. Each inmate is evaluated by a medical professional upon arrival at STSRCF and based on this evaluation and information contained in medical records, decisions are made concerning treatment or special requirements of each inmate.

STSRCF provides other services in addition to those mandated by TCA including:

Diabetic clinics to provide the inmate with the necessary skills to manage their condition. Health and hygiene clinics to provide the inmate with information on practices necessary for maintaining

their health and well being. Dental hygiene, which includes not only dental cleaning but also information on how to achieve and maintain healthy teeth and gums.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. Based on various evaluations conducted during the classification process, decisions are made concerning the special requirements of each inmate. STSRCF provides other psychological services in addition to those mandated by TCA. STSRCF offers a multitude of psychologically based programming for eligible inmates, i.e., anger management, alcohol and substance abuse education, criminal thinking, recognizing violence, some of which are home-study modules. In addition, classes are offered to assist the inmate into the re-entry of the community. STSRCF also offers violent intervention training for those inmates who have violent charges specially designed to assist them with coping with violent behavior.

Recreational activities are provided for all inmates to promote health and well being and decrease inappropriate behavior. General population utilize the upper yard, weather permitting. Provisions for softball, basketball, tennis, track, weightlifting, handball and tables for relaxation are available during recreation time. Exercise areas are constructed into segregation units to provide exercise opportunities for segregated inmates. The recreation department provides activities for segregation units and general population. Various hobby crafts are permitted. Policy specifies which crafts must be restricted to the hobby shop. Various tournaments are scheduled through the recreation department through the year.

TCA 41-21-208 mandates that all persons sentenced to the penitentiary shall be kept at labor or school when in sufficient health. STSRCF provides a total of 107 inmate job titles ranging from unskilled to highly skilled. Support services (maintenance, food service, landscaping, janitorial) utilize inmate labor for institutional maintenance, food service and a variety of other services. Community ties are promoted through utilization of a community construction crew that provides inmate labor for various non-profit community projects. In addition, the Tennessee Department of Transportation utilizes crews to pick up trash along the highways in three counties. TRICOR supervises the farm and industry operations on site. Medical incentive positions are provided for inmates with limited physical capabilities. Jobs are designed to enhance support operations, provide skills for inmates to use upon release, provide constructive use of inmate time, enhance community relations and provide personal use, thus assisting in learning money management before release.

The chaplain at STSRCF supervises religious services and activities for the institution. Every effort is made to permit each inmate to participate in religious activities/services of their choice within policy guidelines. Numerous volunteers provide valuable religious activities throughout the year. The chaplain, unit management, security staff, medical staff and volunteers work together to provide crisis intervention for all inmates in cases of death, critical illness, etc.

TCA 41-21-238 mandates that the institution provides educational classes and technical-vocational training for all TDOC inmates. To comply with this mandate, each inmate not possessing a high school diploma or adult education certificate is provided the opportunity to participate in adult education. Participation in all of the vocational courses is voluntary; however, the inmate must have a high school diploma or adult education certificate prior to being assigned to any vocational course. STSRCF has two adult education classes (ABE) and eight vocational classes.

TCA 41-1-407 mandates that employees are adequately and appropriately trained in the particular skills required in performing the duties of their job assignment. The training coordinator ensures

the training requirements are met through the Tennessee Correction Academy and other community based training that are duty specific for pre-service (new employees) and in-service (qualified employees).

## Performance Standards

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Reduce the average percent of positives received in drug test results.
5. Maintain employee turnover rate.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Maintain the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0% **	89%	93%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

\*\* no testing administered during this period

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
65	60	50

3. Institutional Escapes.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

4. Percent of postive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1.99%	1.44%	1.44%

5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
7%	7%	7%

6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
99.6%	99.6%	99.7%

7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	0	0

8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
83	90	92

9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

## Obstacles to Meeting Objectives and Delivering Services

Obstacles include increasing offender population in Tennessee as well as decreasing state and federal funds. There is also an increased demand for health and mental health care services and few health care professionals, i.e., nurses, mental health treatment specialist, etc., available for employment. Additionally, there is an inability to locate a certified substance abuse counselor to conduct the substance abuse treatment. High turnover rates among institution employees, particularly correctional officers within their first year of employment become an obstacle.

## Means of Overcoming Obstacles

STSRCF will expand the present operation with sufficient beds to accommodate the increase in population if selected as an expansion site. A more immediate means of overcoming this obstacle is to direct the focus on reducing the recidivism rate by rehabilitative and transitional classes, i.e., pre-release, mental health treatment, TRICOR job placement endeavors, etc. STSRCF will review each area of institutional operation on a continuing basis and identify any areas where expenditures can be reduced and implement procedures to ensure maximum reduction. Seek opportunities for service enhancements that will reduce expenditures both long and short term. On a continuing basis, STSRCF will review the health/mental health needs of the inmate population and ensuring available staff are utilized at maximum capacity to provide essential and optional services. STSRCF will utilize department and community resources to locate qualified staff for employment. STSRCF will contract with a local provider for 20 hours per week to conduct a modified version of the curriculum until a certified counselor can be located and hired. STSRCF will continue the mentoring initiative and be selective in assigning staff as mentors, ensuring only those staff who are knowledgeable of the operation of the facility and who have a positive, progressive attitude are selected. STSRCF will conduct exit interviews of all staff who leave state employment and identify and correct any legitimate problems revealed in the interview. STSRCF will conduct a review of a percentage of staff during the first year of



employment and eliminate problems identified during this session. STSRCF will comply with all regulations to the extent possible based on the physical plant.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. The inmates are responsible for the fees associated with copies of records as well as any purchases made in the commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. STSRCF will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. STSRCF will ensure that all assigned personnel positions are filled to minimize overtime expense.

### **Future Challenges and Opportunities**

STSRCF will continue to review recycling and composting initiatives as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. STSRCF will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. STSRCF will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. STSRCF will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. STSRCF will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. STSRCF will ensure compliance with OSHA regulations and NFPA life safety codes. This is a

challenge in light of reduced state funds for training and turnover rates. STSRCF will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities. STSRCF will continue the Security Threat Group (STG) program to discourage STG activity throughout the TDOC. This is an opportunity to further reduce gang activity in the institution.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff. Inspectors within and outside the department validate Fire Marshal and other inspection data.

## **329.41 West Tennessee State Penitentiary**

West Tennessee State Penitentiary (WTSP), located west of Henning, TN, is the largest facility for male felons in the Tennessee Department of Correction (TDOC). WTSP is a multi-mission institutional complex. It is a reception and classification center, which also houses all custody levels of inmates, including temporary placement of males with death sentences and pre-release participants. The security designation is maximum. The designated capacity is 2,586.

Academic courses include Adult Basic Education, GED and additional special education. Vocational courses include commercial cleaning, upholstery, tailoring, residential construction, personal computing, office occupations, small engine repair, barbering and culinary arts. Tennessee Rehabilitative Initiative in Correction (TRICOR) provides training and job opportunities through three manufacturing operations and a farming operation located on the 6,000 acres comprising WTSP.

## **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. In adherence to this process, each inmate entering TDOC custody is classified within the first 30 days. Inmate's classification level is reevaluated annually. WTSP serves as the reception center for the western region in TDOC. Classification centers evaluate inmates entering the correctional system. During the classification process each inmate completes various evaluations which provide information concerning the inmates physical and mental health, work and training experience, educational background, religious affiliation, and family background. Based on these evaluations decisions are made concerning the most appropriate institutional placement or special requirements of each inmate.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

WTSP provides other psychological health services as well. WTSP offers a multitude of psychologically based programming that eligible inmates may attend such as cognitive-behavioral therapy and anger management. As another optional service, treatment/training aimed at easing the psychological stress of reentry to the community is offered to all eligible inmates before release. Treatment/Courses are specially designed for low-functioning inmates are also offered to persons incarcerated at WTSP. Additionally, WTSP offers a therapeutic community that is especially designed to help inmates recover from drug and alcohol addictions.

TCA 41-21-238 mandates that TDOC provides educational classes and technical-vocational training for all TDOC inmates. In adherence to the mandates, each inmate is eligible, regardless of age, to participate in Adult Basic Education (ABE) if he has no verified GED or high school diploma. Participation in any of the vocational courses is voluntary, but requires a high school diploma, GED, or specialty test to ensure participants possess adequate academic skills to complete the course.

WTSP provides optional education and vocational services as well. Inmates who complete the required hours and coursework are eligible to test for and obtain barbering and other technical licenses.

## Performance Standards

1. Increase participation in the Pre-Release Training.
2. Increase the number of inmates completing Substance Abuse Treatment.
3. Increase the GED completion rate.
4. Reduce the number of institutional incidents.
5. Maintain the number of institutional escapes.
6. Reduce the average percent of positives received on drug tests results.
7. Maintain the rate of employee turnover.
8. Increase compliance scores of Annual Inspection Results.
9. Decrease the number of deficiencies on Internal Audit Reports.
10. Increase the Department of Health scores.
11. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. Pre-release Participation.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
111	120	160

2. Inmate Substance Abuse Treatment Completion.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
43	60	75

3. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
60%	72%	75%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

4. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
5165	5000	4800

5. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

6. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
4.13%	3.67%	3.67%

7. Correctional Officer Turnover Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
35.3%	35%	35%

8. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
92.3%	93%	94%

9. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

10. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
84.25	88	92

11. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
14	12	10

## Obstacles to Meeting Objectives and Delivering Services

Major obstacles include increasing felon population in Tennessee and decreasing state and federal funds. Other obstacles include increasing demand for health and mental health care services and decreasing availability of staff in specialty areas (i.e. vocational and academic instructors, food service staff, and medical staff). There is also an increase in both the demand for substance abuse programming and in the reception of inmates with gang affiliations.

## Means of Overcoming Obstacles

Major means of overcoming obstacles include increased involvement and attention to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. Additionally, the institution will review each area of TDOC business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. WTSP will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. WTSP will seek alternate methods to enhance recruitment opportunities (i.e. through higher education facilities and wider range of advertisement). WTSP will increase substance abuse treatment and include an aftercare component for the therapeutic community. WTSP will Maintain level of inmate gang affiliation detection during initial classification.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. The inmates are responsible for the fees associated with copies of records as well as any purchases made in the commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. WTSP will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

## **Means of Avoiding Unnecessary Cost and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. WTSP will ensure that all assigned personnel positions are filled to minimize overtime expense.

## **Future Challenges and Opportunities**

WTSP will continue to review recycling and composting initiatives to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. WTSP will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. WTSP will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. WTSP will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment, drug dogs, and random staff searches at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. WTSP will continue to randomly drug test a minimum of 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. WTSP will ensure compliance with OSHA regulations and NFPA life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. WTSP will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff. Inspectors within and outside the department validate Fire Marshal and other inspection data.

## **329.42 Riverbend Maximum Security Institution**

Riverbend Maximum Security Institution (RMSI), located in Nashville, is a level IV maximum-security facility whose primary function is to house male felons classified as either maximum or close security. In addition, RMSI houses a number of medium and minimum-security inmates who attend education courses or work in institutional support jobs. An inmate is classified as maximum security based on their history of extremely violent, assaultive and disruptive behavior and/or past escapes or escape attempts. These behaviors require more intense control, supervision and structure than offered at other institutions.

RMSI is the location for Tennessee's inmates sentenced to death, housing inmates given the sentence of death by court order, and carrying out that sentence in the manner and at the time ordered by the court. It also serves as a reception and classification center for those inmates sentenced to death.

In addition to convicted felons sentenced to state custody, RMSI also houses jail inmates where judges, under the provision of state law, have found that the local jail or any surrounding jails are insufficient for the safekeeping of the inmate, and has ordered the inmate to be housed at a state prison.

## **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. Inmates sentenced to death are delivered to RMSI from the county of conviction, where the classification process is completed within 30 days. As part of the classification process, the classification levels of all inmates are reviewed annually.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. While other inmates have completed this evaluation during their classification at the department's reception centers, death row inmates coming straight to RMSI receive a complete health evaluation once they arrive here.

TCA mandates that the Tennessee Department of Correction (TDOC) provides an adequate level of medical care, including 24-hour emergency care, to all inmates. As a means of providing this care the Department of Correction contracts to provide on-site medical personnel on a 24-hour basis. In addition they provide medical specialty services, as required, and hospitalization for the inmates who need it, as mandated by TCA 4-6-109.

TCA 41-21-204 mandates that, in addition to adequate medical care, all inmates be provided with an adequate level and quality of psychological services. As a means of providing these services, the Department of Corrections contracts with MHM, Inc. to provide sufficient psychological and psychiatric services.

RMSI offers a number of optional psychological health services as well. A number of treatments are offered in the area of cognitive behavioral therapy, anger management and grief counseling. Other therapeutic treatments include sex offender aftercare treatment and curricula specifically designed to help inmates recover from drug and alcohol addictions.

TCA 41-21-238 mandates that educational classes and technical-vocational training are to be available for TDOC inmates. Academic courses include Adult Basic Education (ABE) and GED. Vocational courses include cabinet making, industrial cleaning and building trades. TRICOR provides job opportunities through a print plant and data entry. Data entry, which employs inmates sentenced to death, is part of a level system designed to assist in the management of death row inmates. RMSI's management of death sentenced inmates has been recognized nationally as innovative, professional, and as a goal for other states to emulate.

Pre-release training is in place to assist the inmates in their preparation for reentry back into the community once they have been released from custody.



## Performance Standards

1. Increase the GED completion rate.
2. Maintain the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Maintain the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	92%	100%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
874	1000	1000

3. Institutional escape rate (per 100 inmates).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1.56%	1.43%	1.43%

5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
46%	46%	46%

6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
93%	94%	95%

7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
4	0	0

8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
88	91	95

9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

### **Obstacles to Meeting Objectives and Delivering Services**

Major obstacles include increasing male felon population in Tennessee and increasing employee turnover rates. Other obstacles include increasing number of violent inmates and increasing demand for health and mental health care services. A final obstacle is increased usage exceeding life expectancy of electronic security components.

### **Means of Overcoming Obstacles**

RMSI will review each area of business and operational practices to identify and implement cost reductions and services enhancement. RMSI will review and revise recruitment efforts to attract qualified applicants. RMSI will provide sufficient training and support to new employees in order to retain them and avoid new vacancies and subsequent training costs. RMSI will carefully implement and monitor existing TDOC policies regarding maximum security inmates. RMSI will ensure continued preventive maintenance and maintenance of equipment to maximize life of equipment with minimum disruptions. RMSI will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. RMSI will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies

along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. RMSI will ensure that all assigned personnel positions are filled to minimize overtime expense.

### **Future Challenges and Opportunities**

RMSI will continue to review recycling and composting initiatives as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. RMSI will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. RMSI will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. RMSI will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. RMSI will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. RMSI will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. RMSI will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal and other inspection data.

### **329.43 Northeast Correctional Complex**

The Northeast Correctional Complex (NECX) site is a time-building institution with a security designation of maximum with a capacity of 1,880 beds. NECX houses men of all custody levels, and has a 300-bed minimum custody annex. The Carter County Annex site is a 210-bed annex that houses minimum-security inmates who are within ten years of release eligibility.

Both sites operate extensive community service initiatives. Last year the community service crews worked 241,975 hours at wage savings of \$1,246,171.25 based on minimum wage of \$5.15/hr.

### **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

### **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. After an inmate completes the initial classification at a reception center, he is transferred to a time building facility, such as NECX. NECX houses the custody levels of maximum through minimum trustee. NECX has a 256-bed protective custody unit, which has custody levels from close to minimum restricted and a 72-bed Administrative Segregation (AS)/maximum security unit.

Inmates are also reclassified when transferred to another facility. Reasons for transfer can vary – an inmate becomes eligible for an incentive (no disciplinary within 12-18 months and has been here at least one year); recommended for parole with pre-release mandatory; accepted to the Security Threat Group (STG) unit at Southeastern Tennessee State Regional Correctional Facility. All transfers except administrative transfers and population management require a reclassification.

An inmate's custody level is determined at initial classification and policy mandates that inmates must be reclassified (re-evaluated) at least annually. However, there are several factors that may cause an inmate's custody to change during the year. These include, but are not limited to, the placement or removal of a detainee, new charges being placed, receiving a severe disciplinary, becoming eligible for annex placement, placed on AS due to serious disciplinary conviction, or AS release.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security

and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. Health services are provided by a company contracted with the State of Tennessee for NECX. The contract provides medical, mental, dental and associated specialty and auxiliary health care of the inmate population of 1,886 beds.

The contractors are responsible for the health care of inmates at both Northeast Correctional Complex (NECX) in Johnson County and includes 210 inmates housed at Carter County Annex (CCAX) in Carter County Tennessee 24 hours a day, seven days a week. Inmate encounters typically exceed 50,000 a year.

The Health Services plan at NECX works at both the local and state level on Continuous Quality Improvement (CQI) initiatives in order to provide the most up to date health care for inmates under the Department's care. CQI continually monitors, evaluates current policies and procedures utilizing Centers for Disease and Control (CDC), National Institute of Health (NIH), Occupational Safety and Health Administration (OSHA), as well as TDOC policies as guidelines to provide the most comprehensive health care possible as according to industry standard.

The American Correctional Association (ACA) accredits the Health Services initiative and 25 of the staff members at NECX are Certified Correctional Health Care Professionals (CCHP) by the National Commission on Correctional Health Care.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. Psychiatric and psychological services are provided at NECX by state employees as well as those contracted by Mental Health Management Services, Inc. Currently the institution employs two licenses psychological examiners, one mental health treatment specialist, a part-time psychiatrist.

The scope of services currently in place at NECX includes treating the mentally ill through the administration and monitoring of psychotropic medication, individual and group therapy, and psychological evaluations and assessments primarily for parole or custody determinations. Individual inmates are seen by referral from staff or through self-referrals if they wish to access mental health services.

TCA 41-21-238 mandates that TDOC provides educational classes and technical-vocational training for all inmates. Academic and vocational educational opportunities are offered at NECX to meet State of Tennessee statutes. Inmates without a GED or high school diploma are eligible to participate in the Adult Basic Education (ABE) course. The classes are open-entry and available to all age groups and ability levels. The vocational classes are also open-entry. While the computer refurbishing and residential wiring/small appliance repair classes require a GED or high school diploma, the other vocational classes are open to inmates who have the necessary reading and computational skills needed to insure successful participation and course completion. A basic literacy assessment is given to those inmates interested in vocational training but don't have a GED or high school diploma.

Substance Abuse Treatment at NECX is a drug therapy treatment. After inmates have successfully completed this treatment, they are then sent to Anger Management for another three months.

This is a full time treatment and inmates attend five days per week. A certificate is issued when inmates successfully complete both Substance Abuse and Anger Management.

This training runs parallel with the Substance Abuse treatment for a total of six months – with inmates spending 12 weeks in Anger Management and 12 weeks in Substance Abuse.

It is an all-inclusive training course and the inmate does not receive a certificate from either program until both have been successfully completed.

The group meets five days a week. The primary focus of this training is to focus on group discussions on topics related to managing and coping with individual anger, stress, and frustration. The foundation of this training revolves around Dr. Stanton Samenow's series on Commitment to Change: Errors in Thinking.

Pre-release training is a volunteer course provided to inmates that are designed to provide realistic release preparation and understanding of community re-entry. The curriculum is designed to utilize volunteer speakers from the community to address the following issues: emotional expectations of family and friends; referral to medical and mental health care services; aftercare treatments; rules of parole and probation; acquiring various licenses, birth certificates, social security cards, etc.; how to search for and obtain employment; health and dental care; personal budgeting; housing and transportation; Thinking for a Change.

The recreational opportunities are on winter and summer schedules with both indoors and outdoors activities. Both annexes have the same opportunities and the same basic events as the main compound gym does.

The Alcoholics Anonymous group meets weekly with the assistance of outside sponsorship to discuss a variety of ways that alcohol affects each person differently, the dangers and effects of alcohol on them and others, and coping strategies. It is designed to prepare members to cope with stressful situations that may lead to drinking and points them towards education and other courses to fill the void where alcohol had once been. The Department's next step is re-introduction to family, expressing problems, co-dependency, and living their lives one day at a time.

The Narcotics Anonymous treatment is a voluntary self-help treatment open to any inmate who wishes to address addictive behavior. It is designed to help recovering addicts in staying drug free. This treatment is based on the 12 step principal, which utilizes guest speakers, printed text, audio-visual aids, and group discussion. Personal insights and observations are encouraged to complete a growth stage towards recovery.

There are several voluntary activities/classes designed to develop self-confidence, self-esteem and self-awareness, such as C.A.U.S.E., Pathfinders, Toastmasters, and Seven-Step Program.

## **Performance Standards**

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.

7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. GED pass rate.\*

Actual (FY2002-2003)	Estimate (FY2003-2004)	Target (FY2004-2005)
100%	67%	79%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3600	3600	3500

3. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1	0	0

4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2.34%	2.20%	2.20%

5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
24%	25%	25%

6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
98.6%	98.7%	98.8%

7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3	1	0

8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
94	95	95

9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1	1	0

### **Obstacles to Meeting Objectives and Delivering Services**

Major obstacles include increasing male felon population in Tennessee and decreasing state and federal funds. Other obstacles include increasing demand for health and mental health care services and high staff turnover.

### **Means of Overcoming Obstacles**

Major means of overcoming obstacles include increased involvement and attention to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. Additionally, the institution will review each area of the Tennessee Department of Correction (TDOC) business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. NECX will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. NECX will enhance the job training and a mentorship initiative.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. NECX will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable



laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans.

### **Future Challenges and Opportunities**

NECX will continue to review recycling and composting initiatives as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. NECX will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. NECX will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. NECX will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. NECX will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. NECX will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. NECX will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff. Inspectors within and outside the department validate Fire Marshal and other inspection data.

### **329.45 Northwest Correctional Complex**

Northwest Correctional Complex (NWCX) is situated in Tiptonville on 249 acres in the rural northwest corner of Tennessee, in Lake County.

Northwest Correctional Complex is comprised of the main compound, the minimum security unit, and the annex. The main compound and minimum security unit, originally designated as Northwest Correction Center, became operational in 1992. The annex, originally designated as Lake County Regional Correctional Facility, became operational in 1981. In July, 1997, the two

facilities were consolidated as part of the Tennessee Department of Correction (TDOC) reorganization and were then designated as Northwest Correctional Complex. The complex has a security designation of Level III, housing inmates with a custody level of minimum trustee to close custody. The main compound houses all custody levels of inmates, including protective custody; the minimum security unit houses the community service crews; and, the annex houses minimum restricted custody inmates and youthful offenders.

The operating capacity of Northwest Correctional Complex is 2,352 inmates. The age range of the inmate population is 16-65 years of age. The average length of stay is five years. There are 32 housing units at Northwest Correctional Complex, each designated by a number. The remaining buildings at the complex include two full service kitchens, administration buildings, security control rooms, check-points, armory, warehouse and commissary facilities, along with recreational areas, academic and vocational buildings, a laundry, maintenance shops, libraries, a chapel and a large industry building.

During the past year, NWCX made significant strides in meeting many of the objectives and strategies mentioned in both the strategic plan and the Department's plan. Some of the most significant events include:

GED testing continued throughout the year with an average of 74% success rate. Total inmate grievances compared to the previous year decreased. A concentrated effort continued recruiting/retaining staff via participation in various job fairs, high school class discussions, etc. The facility closed the fiscal year with a cost of \$44.53 per inmate per day, reverting back approximately \$1.6 million. The following inmate treatments were continued this year: a therapeutic community, one drug and alcohol treatment on the main compound and the CHANGES program at the minimum security unit.

### **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

### **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. After an inmate completes the initial classification at a reception center, he is transferred to a time building facility, such as NWCX.

Inmates are also reclassified when transferred to another facility. Reasons for transfer can vary – an inmate becomes eligible for an incentive (no disciplinary within 12-18 months and has been here at least one year); recommended for parole with pre-release mandatory; accepted to the STG unit at STSR. All transfers except administrative transfers and population management require a reclassification.

An inmate's custody level is determined at initial classification and policy mandates that inmates must be reclassified (re-evaluated) at least annually. However, there are several factors that may cause an inmate's custody to change during the year. These include, but are not limited to, the placement or removal of a detainer, new charges being placed, receiving a severe disciplinary, becoming eligible for annex placement, placed on AS due to serious disciplinary conviction, or AS release.

TCA 41-21-204 mandates that appropriate medical and mental health services be provided to each inmate. In adherence to this mandate, each inmate is given the opportunity for medical attention. In order to promote inmate self-reliance and participation in their own health care decisions, inmates are charged a co-payment of \$3.00 each time they initiate an encounter with health care staff.

NWCX provides optional psychological health services as well. NWCX offers a multitude of psychologically based programming that eligible inmates may attend such as cognitive-behavioral therapy and anger management. Other programs aimed at easing the psychological stress of reentry to the community are offered to all eligible inmates before release. Additionally, NWCX offers a therapeutic community that is especially designed to help inmates recover from drug and alcohol addictions.

In adherence to TCA 41-1-408, NWCX strives to maintain and promote inmate health and disease prevention through individual teaching and group health education courses. These classes are designed to increase a person's knowledge and ability to make informed decisions regarding his personal health and well being, along with that of the family and community. Such courses include AIDS Awareness, Hepatitis Prevention, etc.

TCA 41-21-238 mandates that TDOC provides educational classes and technical-vocational training for all TDOC inmates. In adherence to the mandate, each inmate is eligible regardless of age to participate in Adult Basic Education if he has no verified GED or high school diploma. Participation in any of the vocational courses is voluntary, but requires a high school diploma, GED, or specialty test to ensure participants possess adequate academic skills to complete the class.

NWCX provides optional education and vocational services as well. The institution provides 14 basic education classes, two Title I classes, and 17 vocational courses. Inmates who complete the required hours and coursework are eligible to test for and obtain barbering licenses and other technical certificates.

## **Performance Standards**

1. Increase Anger Management Self-Help Programs Analysis.
2. Increase Substance Abuse Self-Help Programs Analysis.
3. Increase the GED completion rate.
4. Reduce the number of institutional incidents.
5. Maintain the number of institutional escapes.
6. Reduce the average percent of positives received on drug tests results.
7. Maintain the rate of employee turnover.
8. Increase compliance scores of Annual Inspection Results.
9. Decrease the number of deficiencies on Internal Audit Reports.
10. Maintain the Department of Health scores.

11. Decrease the number of deficiencies on Fire Marshal's reports.

### Performance Measures

1. Completed Anger Management Self-Help Program Analysis.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
73%	75%	75%

2. Completed Substance Abuse Self-Help Program Analysis.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
68%	70%	75%

3. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
75%	85%	88%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

4. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,225	1,220	1,200

5. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

6. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2.99%	2.75%	2.75%

7. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
25%	25%	25%

8. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
97%	97.3%	97.5%

9. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	0	0

10. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
90	90	90

11. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
25	30	20

### **Obstacles to Meeting Objectives and Delivering Services**

Major obstacles include increasing male felon population in Tennessee and decreasing state and federal funds. Other obstacles include increasing demand for health and mental health care services and increasing vacancy rate for correctional officers.

### **Means of Overcoming Obstacles**

Major means of overcoming obstacles include increased involvement and attention to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. Additionally, the institution will review each area of TDOC business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. NWCX will revise and maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. NWCX will seek alternate methods to enhance recruitment opportunities (i.e. through higher education facilities and wider range of advertisement). Finally, NWCX will re-class food service stewards to correctional food service officers with the same hiring and pre-service requirements and same pay.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs.

Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. NWCX will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the

services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. Maintain all assigned personnel positions filled to minimize overtime expense. NWCX continues to participate in comparative evaluations with privately operated prisons. NWCX has a comprehensive means of limiting the issuance of supplies. Supply issuance is reviewed monthly to ensure issuance remains within the pre-determined limits.

### **Future Challenges and Opportunities**

NWCX will continue to review recycling and composting initiatives as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a challenge due to the continuing growth of inmates and the environmental impact that results from such growth. NWCX will evaluate institutional energy reduction goals and cost savings initiatives with a five year payback during the fiscal year despite growing felon populations. Continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. NWCX will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. NWCX will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. NWCX will ensure compliance with OSHA regulations and NFPA life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. NWCX will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal and other inspection data. TDOC Central Office budget/fiscal services validates all financial data.

## **329.08 Wayne County Boot Camp**

In 1985, Wayne County Work Camp (WCBC) was opened with 120 inmate beds as a medium security facility. In December 1989, The Wayne County Work Camp was reorganized as a Special Alternative Incarceration Unit and renamed Wayne County Boot Camp (WCBC) commonly referred to as the boot camp. The boot camp program is a highly disciplined; military-style-training program combined with various treatment programs. Eligible offenders are under 35 years of age and convicted of non-violent crimes with sentences of six years or less (longer for most drug offenses). The program is operated as minimum security. In February 1993, the mission of the boot camp was modified to include 50 beds for geriatric inmates, thereby reducing the boot camp program space. In 1997, a 300 bed minimum security annex was opened to house technical probation and parole violators who were temporarily housed at Tennessee Correctional Work Center and other minimum security inmates.

## **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 TCA mandates the initial classification process, and it begins with the receipt of a newly committed offender at the reception center. During this process, inmate photographs are taken, institutional records established, intelligence, psychological, and educational testing is administered. Completion of religious needs, medical, and dental examinations, visitation list, counselor assignment, and orientation is also conducted. Once this initial process is completed, the inmate may be assigned to WCBC. All inmates receive an annual reclassification process. A special reclassification may occur prior to the annual date due to several factors such as: warden's request, disciplinary conviction, parole board recommendation, or completion of a program.

TCA 41-1-101 TCA mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody,

control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates adequate medical care to be provided at all prisons. Inmates receive the initial healthcare assessment at the reception center. To ensure continuity of care for inmates entering WCBC, health screenings are performed immediately upon arrival with a health questionnaire being completed and evaluation by a health professional. Written procedures are in place to cover 24 hour emergency medical, dental, and mental health care availability.

TCA 41-21-204 mandates adequate psychological evaluation and treatment of inmates. Inmates receive initial psychological assessment at the reception center. Once the inmate is at WCBC, all employees who observe the behavior and/or emotional status of an inmate considered in need of mental health services will refer that inmate for assessment and/or evaluation to a licensed/qualified mental health professional. Mental health due process and transfer procedures will be initiated upon determination that the inmate is in need of specialized mental health care. WCBC offers several psychological based programming that eligible inmates may attend. Such programs are Substance Abuse, Anger Management, Pre-Release upon request, Drug Education for boot campers, and Sex Offender Program.

TCA 41-21-238 mandates inmates have access to educational programs and vocational opportunities. To comply with this mandate, WCBC offers the general equivalency diploma (GED) program for inmates who request placement. Upon assignment to WCBC, each inmate's education is reviewed. Those inmates who do not have a diploma are recommended for placement into the GED program. Certain job placements at the institution require a high school diploma or GED; therefore, an incentive is established. Vocational opportunities include community service work. Inmates assigned to community service work crews may acquire more marketable skills.

## **Performance Standards**

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Reduce the average percent of positives received on drug tests results.
5. Maintain the rate of employee turnover.
6. Increase compliance scores of Annual Inspection Results.
7. Decrease the number of deficiencies on Internal Audit Reports.
8. Increase the Department of Health scores.
9. Decrease the number of deficiencies on Fire Marshal's reports.

## **Performance Measures**

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
82%	68%	79%



\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
98	101	95

3. Institutional escapes.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

4. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1.82%	1.20%	1.20%

5. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3%	3%	3%

6. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
98.5%	98.6%	98.7%

7. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3	2	2

8. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100	100	100

9. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
13	15	15

## Obstacles to Meeting Objectives and Delivering Services

Major obstacles include an increasing male felon population and decreasing state and federal funds. Other obstacles include a disproportionate increase in the cost of health and mental health services (HIV, Hepatitis, etc) when compared to other services and increased turnover among

nursing staff areas. A final obstacle is that offenders have education deficits, poor job skills, and substance abuse problems.

### **Means of Overcoming Obstacles**

Means of overcoming these obstacles include developing a plan for identifying alternative funding and resource opportunities. WCBC also will broaden the pool of eligible nursing candidates by offering more competitive wages compared to private sector. WCBC will review current contract cost and determine the increasing cost factor and address these problems with sufficient program resources to reduce the rate of recidivism.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. The TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. The inmates are responsible for the fees associated with copies of records as well as any purchases made in the commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own program materials to offset costs of the program. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. WCBC will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. WCBC will ensure that all assigned personnel positions are filled to minimize overtime expense.

### **Future Challenges and Opportunities**

WCBC will continue to review recycling and composting programs as well as pursuing private recycling resources available to further reduce impact on landfills during the fiscal year. This is a

challenge due to the continuing growth of inmates and the environmental impact that results from such growth. WCBC will evaluate institutional energy reduction goals and cost savings programs with a five year payback during the fiscal year despite growing felon populations. WCBC will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of growing felon populations. WCBC will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. WCBC will randomly test 10% of in house population. This is an opportunity to further reduce drug use in TDOC facilities. WCBC will ensure compliance with OSHA regulations and NFPA life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. WCBC will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal and other inspection data.

### **329.46 Lois M. DeBerry Special Needs Facility**

The mission of the Lois M. DeBerry Special Needs Facility (DSNF) is to provide quality health care and intensive mental health and sex offender treatment programming in a setting that shall ensure a safe and secure environment of the facility staff and for inmates who participate in the treatment, training, and services. The standards of care at this institution are commensurate with standards established in the community for quality of care.

Lois M. DeBerry Special Needs Facility was completed and began receiving inmates in June 1992, after the closing of the original Tennessee State Prison and the DeBerry Correctional Institute. Tennessee State Prison had contained the main medical center for the Tennessee Department of Correction (TDOC); DeBerry Correctional Institute provided services for the mentally ill and sex offenders. These programs were combined in the Special Needs Facility in June 1992.

Because of the special mission of this facility there are 800 beds, most of which are in individual cells. The staff, which includes security, mental health treatment, administration, and health care, totals 465 positions.

The Lois M. DeBerry Special Needs Facility (DSNF) provides a number of services for the department including chronic, long-term and convalescent health care, intensive mental health intervention, and a therapeutic treatment for sex offenders.

Two skilled nursing units in the Health Center provide care for inmates recovering from surgery, serious illness, or housing for inmates whose treatment regimen is not manageable at other TDOC facilities. There is also a rehabilitation unit that houses inmates with long-term medical needs.

The Department's Contract Medical Provider contracts with a community hospital to provide inpatient and outpatient care for the inmate population in a designated, secure area. Other hospitals are also utilized for specialized care not available in the contract hospital.

Specialty clinics, short-stay surgeries, individual treatment and diagnostic services not available at other facilities are provided to the inmates from all facilities through the transient unit, health center, and contract staff at DSNF.

Mental health units are provided for inmates with acute mental health needs. The mental health treatment initiative is designed to stabilize the inmate and move him through a process where the inmate takes more responsibility for his behavior and mental health. There are units for the mentally challenged and a sheltered workshop treatment available to inmates in this unit.

A progressive, therapeutic treatment option is provided for the department's sex offender population. Mental health professionals attempt to lead these inmates through stages of identifying their problem and beginning to deal with it. Additionally, a geriatric unit is located at this facility for TDOC inmates who are aged or infirm and unable to care for themselves within a traditional prison population.

## **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

TCA 4-6-109 requires whenever, in the judgment of the physician or physicians in charge of any of the charitable or penal institutions of the state of Tennessee, it becomes necessary to perform an operation or give special treatment or care to any inmate of any such institution, if the institution is not equipped for the performance of the operation or to give special treatment, the physician in charge of such institution may, with the approval of the commissioner vested with the administration of such institution, have such inmate placed in a first-class hospital of the state where the inmate may have the necessary operation, hospitalization, care and treatment.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-21-202 mandates the classification of each inmate. In adherence to this process, each inmate entering TDOC custody is classified within the first 30 days. Inmate's classification level is reevaluated annually. DSNF serves as the reception center for inmates received into TDOC's

custody directly from committing agencies due to medical or mental health reasons. During the classification process each inmate completes various evaluations which provide information concerning the inmates physical and mental health, work and training experience, educational background, religious affiliation, and family background. Based on these evaluations decisions are made concerning the most appropriate institutional placement or special requirements of each inmate.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

DSNF provides psychological health services and offers a multitude of psychologically based programming that eligible inmates may attend, such as cognitive-behavioral therapy and anger management. As another optional service, courses aimed at easing the psychological stress of reentry to the community are offered to all eligible inmates before release. Classes that are specially designed for low-functioning inmates are also offered to persons incarcerated in DSNF. Additionally, DSNF offers programming that is especially designed to help inmates recover from drug and alcohol addictions.

TCA 41-21-238 mandates that the Department provide educational classes for all TDOC inmates. In adherence to the mandate, each inmate is eligible regardless of age to participate in Adult Basic Education (ABE) if he has no verified GED or high school diploma.

## **Performance Standards**

1. Increase the number of participants in the Sexual Offender Treatment.
2. Increase the number of Mental Health jobs.
3. Increase the number of participants in Substance Abuse treatment.
4. Reduce the rate of nurse staffing attrition.
5. Increase the GED completion rate.
6. Reduce the number of institutional incidents.
7. Maintain the number of institutional escapes.
8. Reduce the average percent of positives received on drug tests results.
9. Maintain the rate of employee turnover.
10. Increase compliance scores of Annual Inspection Results.

11. Decrease the number of deficiencies on Internal Audit Reports.
12. Increase the Department of Health scores.
13. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. Sexual Offender Treatment Participants.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
88	118	138

2. Mental Health Jobs.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
238	238	288

3. Substance Abuse Participants.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
553	623	673

4. Nurse Staffing Attrition.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
16%	13%	9%

5. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	50%	86%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

6. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
692	675	662

7. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

8. Percent of positive drug tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0.52%	0.39%	0.39%

9. Correctional Officer turnover rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
51%	50%	50%

10. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
92.6%	93%	94%

11. Internal Audit Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1	1	0

12. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
98	99	99

13. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

## Obstacles to Meeting Objectives and Delivering Services

Major obstacles include increasing felon population in Tennessee and decreasing state and federal funds. Other obstacles include increasing demand for health and mental health care services and decreasing availability of staff in specialty areas (i.e. vocational and academic instructors, food service staff, and medical staff). Personnel obstacles include low staff pay, late renewal of service contracts, inability to control salaries and lack of staff involvement in recruitment/retention. Additional obstacles include inmates refusing to participate in substance abuse treatments and lack of comprehensive treatment option for the self-injurious behavior inmates. A final obstacle is a lack of meaningful data collection to measure attrition rate.

## Means of Overcoming Obstacles

DSNF will review each area of business and operational practices annually and identify and implement cost reductions and opportunities for service enhancement and/or public/private partnerships. DSNF will increase involvement and collaboration with other state agencies indirectly or directly impacted by DSNF services. DSNF will maintain a comprehensive monitoring process for all physical and mental health contractors and providers to ensure quality care and contractor performance. DSNF will seek alternate funding to enhance recruitment opportunities. DSNF will seek additional federal funding through the appropriate division at TDOC Central Office and network with other states to problem-solve. DSNF will follow the recommendation of the initial classification plan in order to more effectively place inmates into productive training and treatment options. DSNF will hire experienced therapist for the

development of the Self-Injurious Behavior Program/Protocols. DSNF will determine data needed and collect. DSNF will empower staff to be involved in decision making process. DSNF will better utilize services of personnel resources in central office.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The inmates are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. TDOC receives funding from federal grants by maintaining compliance with Title VI, submission of Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant (VOITIS) reports and timely submission quarterly Death in Custody reports. Other sources of revenue are created through the services of the Commissary. Sex Offender Treatment Program (SOTP) inmates purchase their own course materials to offset costs of the class. Additionally, inmates have a co-pay system for various medical costs. Timely and accurate reporting to the federal government is critical to ensure that proper funding is received. DSNF will use data to support selection decisions and set priorities in accordance with mission and goals of the institution. Another source of revenue is created through the services of TRICOR. Sources of revenue are created through the charge for copies to non-state agencies along with the inmate disciplinary fines, damage reimbursement, notary fees and phone calls placed on state phones. Recycling efforts reduce the cost of waste disposal and produce revenue at the same time. Increasing the number of work-release inmates would also produce additional revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC and the State of Tennessee in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates operational policies and procedures to ensure continued compliance with applicable laws and standards. Each year the Department of Correction produces a ten year felon population forecast which serve to monitor the growth of the incarcerated felon population, simulate the impact of various decisions and legislation, and become the foundation for policy decisions concerning the TDOC's Capital Project and Building plans. DSNF will ensure that all assigned personnel positions are filled to minimize overtime expense.

### **Future Challenges and Opportunities**

DSNF will maintain accreditation standards to meet compliance with American Correctional Association despite the growing felon population in Tennessee. DSNF will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. This is a challenge in light of reduced state funds for training and turnover rates. DSNF will monitor and follow up of all non-compliance findings during annual inspections. This is an opportunity to achieve excellence in TDOC facilities. DSNF will maintain standards of sanitation to comply with Health Department requirements. Staff will continue to provide a healthy and safe living and working environment despite the challenge of a growing felon population. DSNF will continue to maintain basic security standards to prevent inmate escapes and violent incidents despite growing felon populations. DSNF will continue to improve control of the impact of infectious disease on the inmate population in terms of quality care and cost containment regardless of



growing felon populations. DSNF will expand efforts to intercept illicit drugs from entering institutions by utilizing electronic drug detection equipment at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. Staff will continue to randomly drug test a minimum of 10% of the in house population. This is an opportunity to further reduce drug use in TDOC facilities. Staff will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in TDOC facilities. Staff will complete a feasibility study on the effectiveness of the various treatments and training courses. After being open for eleven years, DSNF is faced with the challenge of replacing old, worn out equipment and furniture. The anticipated 300-bed unit that is proposed for this institution would create more promotional opportunities for the employee. DSNF will continue to examine and pursue salary and benefits to be competitive with private industry. This is a challenge in light of decreasing state funds. DSNF will continue to provide opportunities for empowerment of staff and the development of self-directed work groups for problem solving to decrease turnover. This is a challenge due to decreasing state and federal funds. DSNF will facilitate the development of career ladders despite decreasing state funding for corrections positions.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the department validate Fire Marshal data and other inspection data. Periodic review of data is conducted from monthly and quarterly reports. A quarterly mental health management CQI audit(s) is conducted. Staff is trained to collect data correctly and accurately.

### **329.21 Hardeman County Correctional Facility**

The Hardeman County Correctional Facility (HCCF) site is a time-building institution with a security designation of medium with an operating capacity of 1,976 beds. The Hardeman County Correctional Facilities Corporation owns Hardeman County Correctional Facility (HCCF), which contracts with Correctional Corporation of America for management of the institution. The Tennessee Department of Correction (TDOC) contracts for medium security beds at this institution.

### **Statutory and Constitutional Objectives**

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities

which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

### **Mandated and Optional Services and Means of Providing Them**

TCA 4-3-603 requires that two TDOC staff are located on site to monitor contract compliance and act as the Commissioner's designees for those functions not delegatable to private entities under state law.

TCA 41-21-202 mandates the classification of each inmate. After an inmate completes the initial classification at a reception center, he is transferred to a time building facility, such as HCCF. HCCF houses the custody levels of minimum through medium. Inmates are also reclassified when transferred to another facility. Reasons for transfer can vary – an inmate becomes eligible for an incentive (no disciplinary within 12-18 months and has been here at least one year); recommended for parole with pre-release mandatory; accepted to the Security Threat Group (STG) unit at Southeastern Tennessee State Regional Facility. All transfers except administrative transfers and population management require a reclassification.

An inmate's custody level is determined at initial classification and policy mandates that inmates must be reclassified (re-evaluated) at least annually. However, there are several factors that may cause an inmate's custody to change during the year. These include, but are not limited to, the placement or removal of a detainer, new charges being placed, receiving a severe disciplinary, becoming eligible for annex placement, placed on administrative segregation (AS) due to serious disciplinary conviction, or AS release.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

Pursuant to TCA 41-21-238, HCCF ensures that educational classes and technical-vocational training are available for TDOC inmates. Each inmate is eligible to participate in Adult Basic Education (ABE) if he has no verified GED or high school diploma. Enrollment in any of the vocational courses is open entry, but requires a high school diploma or GED.

Inmates participate in academic and vocational classes, mental health treatments, and various work opportunities much as they do at TDOC owned and operated facilities.

## Performance Standards

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain the number of institutional escapes.
4. Increase compliance scores of Annual Inspection Results.
5. Increase the Department of Health scores.
6. Decrease the number of deficiencies on Fire Marshal's reports.

## Performance Measures

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
74%	64%	54%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
172	150	135

3. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

4. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
97.1%	97.3%	97.5%

5. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
91	95	95

6. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
12	0	0

## **Obstacles to Meeting Objectives and Delivering Services**

Major obstacles include increasing male felon and the increasing demand for health and mental health care services.

## **Means of Overcoming Obstacles**

There will be an increased involvement and attention by TDOC with regard to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. TDOC will revise and maintain a comprehensive on-site monitoring process for contract facility management to ensure contractor performance.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Per TDOC policy, the inmates housed in HCCF are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. Other sources of revenue for HCCF are created through the services of the commissary. Sources of revenue are also created through inmate disciplinary fines, damage reimbursement, and notary fees.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates TDOC operational policies and procedures to ensure continued compliance with applicable laws and standards. All HCCF policies are reviewed, monitored and maintained by TDOC.

## **Future Challenges and Opportunities**

TDOC will continue to monitor contract compliance. This is a challenge for TDOC due to limited state funding and human resources. The facility's challenge will be to maintain contract compliance and compliance with applicable TDOC policies. An additional challenge for this contract facility is to continue to train persons in accordance with ACA standards. HCCF expends efforts to intercept illicit drugs from entering institutions and random staff searches at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. HCCF will continue to randomly drug test a minimum of 10% of in house population. This is an opportunity to further reduce drug use in facilities. Staff will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. Finally, TDOC staff will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in all TDOC facilities.

## **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff.. Inspectors within and outside the Department validate Fire Marshal data.

## **329.22 Whiteville Correctional Facility**

The Whiteville Correctional Facility (WTCF) site is a time-building institution with a security designation of medium with an operating capacity of 1,505 beds. WCFA is managed by Corrections Corporation of America, a private corrections management firm. This facility began housing TDOC felons in 2002.

## **Statutory and Constitutional Objectives**

TCA 4-3-603 requires the commissioner to be the executive officer of the Department of Correction and to have the immediate charge of the management and government of the institutions mentioned. In addition to any other duties provided by law, when it appears to the commissioner, in the commissioner's sole discretion, that the available facilities and institutions of the Department which are designed for the custody of inmates are overcrowded, the commissioner shall endeavor to alleviate such overcrowded conditions by contracting with local governmental entities, when possible, for the care, custody, and control in local jails, workhouses, penal farms or other such facilities, of inmates who have been committed to the Department, or by any other means permitted by law.

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

## **Mandated and Optional Services and Means of Providing Them**

TCA 4-3-603 requires that two TDOC staff are located on site to monitor contract compliance and provide for those functions not delegatable to private entities under state law.

TCA 41-21-202 mandates the classification of each inmate. After an inmate completes the initial classification at a reception center, he is transferred to a time building facility, such as WTCF.

WTCF houses the custody levels of minimum through medium. Inmates are also reclassified when transferred to another facility. Reasons for transfer can vary – an inmate becomes eligible for an incentive (no disciplinary within 12-18 months and has been here at least one year); recommended for parole with pre-release mandatory; accepted to the Security Threat Group (STG) unit at Southeastern Tennessee State Regional Correctional Facility. All transfers except administrative transfers and population management require a reclassification.

An inmate's custody level is determined at initial classification and policy mandates that inmates must be reclassified (re-evaluated) at least annually. However, there are several factors that may cause an inmate's custody to change during the year. These include, but are not limited to, the placement or removal of a detainer, new charges being placed, receiving a severe disciplinary, becoming eligible for annex placement, placed on Administrative Segregation (AS) due to serious disciplinary conviction, or AS release.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

As optional services, WTCF offers cognitive-behavioral residential and non-residential substance abuse treatments. Other treatment/training includes anger management, life skills, family counseling, and pre-release counseling.

TCA 41-21-238 WTCF ensures that educational classes and technical-vocational training are available for TDOC inmates. Each inmate is eligible to participate in Adult Basic Education (ABE) if he has no verified GED or high school diploma. Enrollment in any of the vocational courses is open entry, but requires a high school diploma or GED.

Academic classes include GED, Adult Basic Education, and English as a Second Language. Vocational classes include building trades, carpentry, computer refurbishing, electrical, masonry, and small engine repair.

## **Performance Standards**

1. Increase the GED completion rate.

2. Reduce the number of institutional incidents.
3. Maintain number of institutional escapes.
4. Increase compliance scores of Annual Inspection Results.
5. Increase the Department of Health scores.
6. Decrease the number of deficiencies on Fire Marshal's reports.

### Performance Measures

1. GED pass rate.\*\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available*	95%	96%

\*\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available*	120	108

3. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available*	0	0

4. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available*	75%	90%

5. Department of Health report.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available*	92	95

6. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available*	20	0

\* not a part of TDOC during this period.

### Obstacles to Meeting Objectives and Delivering Services

Major obstacles include increasing male felon and the increasing demand for health and mental health care services.

### **Means of Overcoming Obstacles**

There will be an increased involvement and attention by TDOC with regard to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. TDOC will revise and maintain a comprehensive on-site monitoring process for contract facility management to ensure contractor performance.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Per TDOC policy, the inmates housed in WTCF are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. Other sources of revenue for WTCF are created through the services of the commissary. Sources of revenue are also created through inmate disciplinary fines, damage reimbursement, and notary fees.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates TDOC operational policies and procedures to ensure continued compliance with applicable laws and standards. All WTCF policies are reviewed, monitored and maintained by TDOC.

### **Future Challenges and Opportunities**

TDOC will continue to monitor contract compliance. This is a challenge for TDOC due to limited state funding and human resources. The facility's challenge will be to maintain contract compliance and compliance with applicable TDOC policies. An additional challenge for this contract facility is to continue to train persons in accordance with ACA standards. WTCF expends efforts to intercept illicit drugs from entering institutions and random staff searches at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. WTCF will continue to randomly drug test a minimum of 10% of in house population. This is an opportunity to further reduce drug use in facilities. Staff will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. Finally, TDOC staff will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in all TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.



## **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff. Inspectors within and outside the Department validate Fire Marshal and other inspection data.

## **329.44 South Central Correctional Facility**

The South Central Correctional Facility (SCCF) site is a time-building institution with a security designation of medium with an operating capacity of 1,642 beds. It is located in Wayne County Tennessee. SCCF houses men of minimum, medium, and close custody levels. SCCF is a state owned facility and is managed by a contract with Corrections Corporation of America.

## **Statutory and Constitutional Objectives**

TCA 41-24-101 through 117 provide the mandates for private prison contracting at the South Central Correctional Facility.

TCA 41-1-101 sets forth the definition and requirements of the state penitentiary. Penitentiary means and includes the Tennessee state penitentiary in Nashville, Brushy Mountain penitentiary, Fort Pillow state farm, and such other penal institutions, reformatories, branches and facilities which may hereafter be acquired, built, constructed or maintained by the state for the purpose of confinement of persons, both male or female, which persons have been convicted of violating the criminal laws of the state of Tennessee and sentenced to imprisonment in the penitentiary.

## **Mandated and Optional Services and Means of Providing Them**

TCA 41-24-101 requires that two TDOC staff are located on site to monitor contract compliance for those functions not delegatable to private entities under state law.

TCA 41-21-202 mandates the classification of each inmate. After an inmate completes the initial classification at a reception center, he is transferred to a time building facility, such as SCCF. SCCF houses the custody levels of minimum through medium. Inmates are also reclassified when transferred to another facility. Reasons for transfer can vary – an inmate becomes eligible for an incentive (no disciplinary within 12-18 months and has been here at least one year); recommended for parole with pre-release mandatory; accepted to the Security Threat Group (STG) unit at Southeastern Tennessee State Regional Facility. All transfers except administrative transfers and population management require a reclassification.

An inmate's custody level is determined at initial classification and policy mandates that inmates must be reclassified (re-evaluated) at least annually. However, there are several factors that may cause an inmate's custody to change during the year. These include, but are not limited to, the placement or removal of a detainee, new charges being placed, receiving a severe disciplinary, becoming eligible for annex placement, placed on AS due to serious disciplinary conviction, or AS release.

TCA 41-1-101 mandates the welfare, conduct and safekeeping of the inmates as the responsibility of the warden. Institutions provide a portion of these mandated services through central security and unit management. Central security provides custody and control to all areas of the facility with the exception of inmate housing units. Unit management provides custody, control, counseling and other treatment services to all inmates within the living units. Central security and unit management function as a cohesive team to assure that proper standards are maintained by enforcing TDOC and institutional rules and regulations and policy requirements.

TCA 41-1-408 mandates the appropriate health evaluation and treatment of each inmate. In adherence to this mandate, adequate medical care is provided including 24-hour emergency care. Each inmate completes various evaluations during classification, which provide information concerning the inmates' physical health. Based on these evaluations decisions are made concerning special health requirements of each inmate.

TCA 41-21-204 mandates the appropriate psychological evaluation and treatment of each inmate. In adherence to this mandate, each inmate completes various evaluations during classification, which provide information concerning the inmates' mental health. Based on these evaluations decisions are made concerning special mental health requirements of each inmate.

SCCF provides one 94-bed unit designated for a Step Up/Step Down mental health treatment as well as a challenger self help treatment. Other mental health services include Pre-Sex Offender Program, Aftercare and HIV support groups, residential substance abuse treatment and self-improvement treatment.

TCA 41-21-238 SCCF ensures that educational classes and technical-vocational training are available for TDOC inmates. Each inmate is eligible to participate in Adult Basic Education (ABE) if he has no verified GED or high school diploma. Enrollment in any of the vocational courses is open entry, but requires a high school diploma or GED.

SCCF also provides literacy tutoring as an optional service. Vocational classes include building trades, industrial cleaning, horticulture, upholstery, electrical, plumbing, and computer operations. Inmate work opportunities include a toyshop, art learning center, and computer refurbishing shop.

## **Performance Standards**

1. Increase the GED completion rate.
2. Reduce the number of institutional incidents.
3. Maintain number of institutional escapes.
4. Increase compliance scores of Annual Inspection Results.
5. Increase the Department of Health scores.
6. Decrease the number of deficiencies on Fire Marshal's reports.

## **Performance Measures**

1. GED pass rate.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
92%	69%	78%

\* The national format of the exam has changed resulting in more difficult content thus accounting for drops in estimate and target pass rates. TDOC plans to alter the curriculum accordingly.

2. Institutional incidents, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
991	980	970

3. Institutional escapes, total.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

4. Compliant Annual Inspection Results.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96.5%	96.8%	97%

5. Department of Health report, average score.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
97.5	98	100

6. Fire Marshal's Report, deficiencies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
80	50	25

## Obstacles to Meeting Objectives and Delivering Services

Major obstacles include increasing male felon and the increasing demand for health and mental health care services.

## Means of Overcoming Obstacles

There will be an increased involvement and attention by TDOC with regard to reentry issues with male inmates as well as increased collaboration with other state agencies indirectly or directly impacted by male recidivism in Tennessee. TDOC will revise and maintain a comprehensive on-site monitoring process for contract facility management to ensure contractor performance.

## Means of Maximizing Federal and Other Non-State Sources of Revenue

Per TDOC policy, the inmates housed in SSCF are responsible for the fees associated with copying of records, medical co-pays, prosthetic devices, lost keys, and identification cards. Other

sources of revenue for SCCF are created through the services of the commissary. Sources of revenue are also created through inmate disciplinary fines, damage reimbursement, and notary fees. Recycling efforts also reduce the cost of waste disposal and produce revenue at the same time.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The American Correctional Association conducts audits of the facility every three years in addition to the annual audits conducted by TDOC in order to ensure proper utilization of all state and federal funds. Each year the Department of Correction reviews and updates TDOC operational policies and procedures to ensure continued compliance with applicable laws and standards. All SSCF policies are reviewed, monitored and maintained by TDOC.

### **Future Challenges and Opportunities**

TDOC will continue to monitor contract compliance. This is a challenge for TDOC due to limited state funding and human resources. The facility's challenge will be to maintain contract compliance and compliance with applicable TDOC policies. An additional challenge for this contract facility is to continue to train persons in accordance with ACA standards. SSCF expends efforts to intercept illicit drugs from entering institutions and random staff searches at entrances and key locations. This serves as an opportunity to further reduce the presence of drugs in TDOC institutions. SSCF will continue to randomly drug test a minimum of 10% of in house population. This is an opportunity to further reduce drug use in facilities. Staff will ensure compliance with OSHA regulations and National Fire Prevention Association (NFPA) life safety codes. Finally, TDOC staff will monitor the follow up of all non-compliance findings during annual inspections. This is an opportunity to continue best practices and excellence in all TDOC facilities.

### **Performance Data Schedule**

Data for performance measures must be maintained on a monthly basis and submitted to Planning and Research each quarter. Data will be available two weeks after the close of the quarter.

### **Data Verification**

The system is automated and allows for instant notification of information. Data on TOMIS is generally 80% to 90% accurate and the system is accessible only to authorized users, security is extremely high. Planning and Research validates reports to management staff. Inspectors within and outside the Department validate Fire Marshal and other inspection data.

# **Military Department**

## **General Agency Information**

The State of Tennessee Military Department encompasses the following seven programs:

1. Tennessee Army National Guard
2. Tennessee Air National Guard
3. Tennessee Emergency Management Agency
4. Tennessee Emergency Management Agency Disaster Relief Grants
5. Administration
6. Armories Maintenance
7. Armories Utilities

The Department's primary mission is to maintain the readiness of an active reserve force that is prepared to respond to a wide range of emergencies on global, national, state and local levels. The Adjutant General, a constitutional officer of the state appointed by the Governor, is responsible for the leadership and command of the Tennessee Army and Air National Guard, the Tennessee Emergency Management Agency and the Bureau of War Records.

## **Administration**

### **341.01 Administration**

The primary purpose of the Administration program is to provide the essential support needed for the Military Department to maintain its readiness, responsiveness, and effectiveness in fulfilling its federal and state missions in service to the nation, states, and local municipalities.

Staff members are charged with the responsibility of providing Administration in support of all Department programs and activities. Services provided by the program include the administration of the Department's budget and fiscal services, human resources, information systems, war records, and public affairs.

### **Statutory and Constitutional Objectives**

Pursuant to Tennessee Code Annotated (TCA) Sections 58-4-101 and 102, the Administration program is responsible for creating and administering a War Records Bureau, the duties of which shall be to compile and preserve the records of those Tennesseans who have served their state and nation in time of war, to correlate those records as to rank, organization, and branch of service, and to furnish to each county in the state a complete list of the residents of that county participating in such war. Furthermore, TCA 58-1-401 mandates the establishment and maintenance of the Tennessee State Guard that falls under the auspices of the Administration program.

## **Mandated and Optional Services and Means of Providing Them**

The Tennessee State Guard (TCA Section 58-1-401) and War Records Bureau (TCA Section 58-4-101) are mandated services of the Administration program. The State Guard provides a wide range of support for the Tennessee Army National Guard and veterans. They provide staff support at armories when soldiers are deployed. Other support activities include armory facilities, family assistance programs, operation stand down, training, and military funerals. Other services provided by the Administration program such as the administration of the Department's budget and fiscal services, human resources, information systems, and public affairs are optional, but necessary for the Department to meet its overall mission and objectives.

## **Performance Standards**

1. Reduce War Records backlog.

## **Performance Measures**

1. Number of War Records documents scanned per day.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
490	500	500

## **Obstacles to Meeting Objectives and Delivering Services**

Routinely, the Department receives funds to implement new services in other program areas. These programs rely on the Administration program to assist in the implementation of the new service; however, no additional resources are allocated to the program for administrative costs. This creates additional workloads on the Administration program staff that inhibits their ability to support and backup the other programs while also performing their own program responsibilities. If this trend continues, the program's ability to effectively support the Department's administrative needs will not be achieved.

Maintenance of the Department's War Records Bureau is labor intensive. Thousands of records have already been imaged with thousands more to be automated. While the Department's operations in this area have been satisfactory, staffing needs are stretched as other project demands occur that require staff time. Workloads are expected to increase and the inability to handle the demands of this service could result in the Department's failure to meet certain statutory requirements.

Currently, 96% of the human and fiscal resources are provided by the appropriate federal agencies. The Department is constrained in the use of those federal resources by federal regulations and guidelines. Consequently, we have little flexibility or limited alternatives concerning how those federal resources will be managed and used.

## **Means of Overcoming Obstacles**

Management is cognizant of the obstacles it faces and, to the extent possible, adjusts accordingly. As priorities change and/or new projects arise, resources are generally realigned or reassigned to maximize efficiencies and to meet the needs of other programs within the Department.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Virtually all Military Department revenue (state, federal, or other) has been appropriated to support a specific budgeted program and when federal and state funds are mixed, the mix is identified and specified. At times, the Department is able to alter a requirement to spend federal rather than state funds on a program. An example would be the Department's success in funding some homeland security programs with federal funds rather than state funds.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Management oversight and supervision are the primary methods used to insure that unnecessary costs and expenditures are not incurred. Senior management officials perform internal audit reviews to ensure efficient and cost-effective operation. Other means include strategic business planning, information systems planning, program and services budgeting and internal management tracking and reviews. External audits from both state and federal officials also occur to ensure efficient operations.

## **Future Challenges and Opportunities**

The primary challenge facing the Administration program will be its ability to provide quality services and support to the other six operating programs of the Department. Additional federal funding to assist in meeting Tennessee's homeland security standards has essentially doubled the Department's budget. Workloads of existing staff are expected to increase and more emphasis and importance will be given to computer technology to assist staff in the performance of their duties. Senior management will be charged with the task of scrutinizing operations closely to prioritize and allocate resources so that efficiency is not compromised.

## **Performance Data Schedule**

Performance data will be generated quarterly and annually.

## **Data Verification**

The Military Department Administration senior management and other managers verify the accuracy of data as noted in the Performance Measurements section of this document.

### **341.10 Armories Utilities**

The Armories Utilities program strictly supports the Military Department facilities with energy requirements, i.e., electric, gas, coal, propane, steam heat, water and sewage, garbage removal and chilled water.

The program is responsible for 4,395,962 square feet of armory space contained in 975 buildings. These facilities' utilities provide support for the Tennessee Army National Guard program soldiers and civilians. Military personnel work, train, and house their equipment at these facilities for emergency peacetime operations or for massive deployments. Some of the deployments are to forward areas in time of war or turmoil, as directed by the Governor of the State of Tennessee or the President of the United States.

This Department does not employ any personnel specifically to administer the utilities programs. Personnel in the Administration program and the Tennessee Army National Guard program each share in the administrative and operational duties of budgeting, programming, scheduling and installations of energy conservation measures, devices and equipment. Administration personnel field all questions from utility companies and receive all statements and process them for immediate payment.

### **Statutory and Constitutional Objectives**

The National Guard is provided for in Amendment 2 to the Constitution of the United States. This militia clause of the constitution provides for the various individual states to recruit and train a militia force to serve their respective governors and to be trained and available to defend the United States when called to federal duty by the President.

Tennessee Code Annotated, Title 58, Chapter 1 provides for the Tennessee National Guard to be formed under the Military Department. TCA Section 58-1-206, Maintenance of National Guard units, provides for adequate armories, bases, camps, target ranges and other facilities that supports military operations, training and related services.

### **Mandated and Optional Services and Means of Providing Them**

TCA Section 58-1-206 mandates armories or Readiness Training Facilities. These facilities provide space for personnel, housing, equipment, support, training, and storage. This space is for federal/state National Guard personnel who have a federal wartime mission and a state peacetime mission with the Governor as the peacetime Commander-in-Chief. Armories are built with federal and state funding mixes to meet the federal and state mandates. When federal funds are used for construction, the state enters into an agreement to maintain and operate the armory for a period of 25 years.

### **Performance Standards**

1. To maintain costs below the regional industrial average of \$9.00 per square foot.



## **Performance Measures**

1. Cost per square foot.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
\$0.62 cents	\$0.60 cents	\$0.58 cents

## **Obstacles to Meeting Objectives and Delivering Services**

Currently there is no state funded energy manager to oversee and actually manage the utility program. The Utility Manager Pro software is the application that will be used to control cost of utilities.

## **Means of Overcoming Obstacles**

The federally funded Army National Guard utilities will undergo a Federal Energy Audit beginning June 15, 2003 at federally funded training sites. The information provided by this audit should be applicable to the state utilities in armories as well. A state facility energy audit will be accomplished when funds are available.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

On occasion, other state departments utilize Army Guard Facilities at no cost. Facility Engineers' workgroup is pursuing the possibility of obtaining grants to upgrade facilities. However, this option will require state funds.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Facility Engineers are requesting funds from the State Revolving Fund account and the Energy Management Loan Fund to upgrade facilities with energy efficient systems.

## **Future Challenges and Opportunities**

Utility cost per unit will continue to increase and funds to pay for energy are not expected to increase at the same rate. The challenge is to more accurately measure and account for utility use to more efficiently manage utility dollars.

## **Performance Data Schedule**

Fiscal Year 2003-2004 should be a comparison year based upon the capture of data in Utility Manager Pro.

## **Data Verification**

The administrative officers at the various locations, along with fiscal office accountants, will work in conjunction with the utility manager to verify data.

## **National Guard**

### **341.02 Tennessee Army National Guard (TNARNG)**

Tennessee Army National Guard is composed of your fellow Tennesseans who serve their country on a part-time basis as a reserve military force. The Army Guard is a state-directed branch of the U.S. military. The Army Guard is the 7th Largest Army National Guard state in overall troop strength.

### **Statutory and Constitutional Objectives**

The National Guard is provided for in Amendment 2 to the Constitution of the United States. This militia clause of the constitution provides for the various individual states to recruit and train a militia force to serve their respective governors and to be trained and available to defend the United States when called to federal duty by the President.

Tennessee Code Annotated, Title 58, Chapter 1 provides for the Tennessee National Guard to be formed under the Military Department.

### **Mandated and Optional Services and Means of Providing Them**

Tennessee Code Annotated, Title 58, Chapter 1 mandates each service within the TNARNG program. Additionally, state or federal funds are tied to the execution of each service. Each service supports, in one way or another, the federal mission of insuring proper training and resources to fight the nation's wars as a reserve of the United States Army or as the State Militia serving the Governor in times of Disasters or Civil Disobedience.

The Assistant Adjutant General's office provides statewide command and control of all Army National Guard forces.

Distance Learning provides Hometown Educational Opportunities through teleconferencing that enables multiple National Guard Units to simultaneously receive training at hometown armories.

Homeland Security provides security and protection for the citizens and critical resources in the State of Tennessee.

Facilities Maintenance and Operation provides the preventative/emergency repairs and upkeep of statewide readiness training centers, armories, facilities and other grounds including the Catoosa Range in Ringgold, GA.

Environmental services that keep the Earth's resources pure and clean provide assistance to eliminate hazards and contaminants from state land and air resources that mutually benefits state and federal government.

Automatic Targeting System provides for electronics technicians who maintain and keep operational Integrated Electronic Automatic Target pop-up systems that enhance marksmanship training of soldiers.

Security is provided to secure and protect state and federal property.

Joint Use Agreements provide for infringed services to maintain facilities shared with other state and federal agencies that share in expenses of the operation for mutual benefits of all entities involved.

Store Front Recruiting utilizes commercial contracts for office space for recruiters to maintain an adequate level of National Guard soldiers to achieve their mission.

High Intensity Drug Traffic Area provides for the eradication of illegal substances and promotes education through various community activities.

### **Performance Standards**

1. Process and complete 85% of all maintenance requests.

### **Performance Measures**

1. Percent of processed and completed maintenance requests.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
87%	85%	85%

### **Obstacles to Meeting Objectives and Delivering Services**

Not Identified

### **Means of Overcoming Obstacles**

Not Identified

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

All Military Department revenue (state, federal or other) has been appropriated to support a specific budgeted service. When federal and state funds are mixed, the mix is identified and specified. At times, the Department is able to alter a requirement to spend federal rather than

state funds on a service. For instance, there has been success in funding some homeland security requirements with federal rather than state funds.

### **Means of Avoiding Unnecessary Cost and Expenditures**

Management oversight is the primary method used to insure that unnecessary expenditures are not incurred. TNARNG continues the processes of monitoring the review of actual expenditures to assure proper application of the available federal resources into the correct programs and compliance with federal/state agreements that call for precise percentage amounts in each category of funding. TNARNG carefully budgets and projects for the proper ratio of federal/state funding as required by the mandated programs. TNARNG also exercises careful scrutiny and control over expenditures to guarantee that (state and federal) parties realize maximum returns without any losses or misuses of funds.

### **Future Challenges and Opportunities**

The Military Department will continue to be challenged with new military missions. Changes in missions cause changes in personnel and funding. Across the state there are many facilities deteriorated to the point that they are no longer cost effective to maintain. The State of Tennessee is responsible for the maintenance of these facilities. Hard decisions with political overtones must be made in consolidating, rearranging, and constructing armories as new and different missions arise.

Tennessee must be willing to resource maintenance funds for the upkeep of needed facilities in areas that have a sufficient recruiting base to properly man new and more sophisticated missions as they become available. Larger and more frequent missions for the Tennessee Guard mean more federal funds to the state. However, these missions also come with commitments. Consequently, the state must provide adequate resources to ensure the successful completion of the mission.

### **Performance Data Schedule**

Performance data schedule will be annually.

### **Data Verification**

The Military Department senior management will verify the accuracy of data as it is reported and briefed.

### **341.03 Tennessee Air National Guard (TNANG)**

The Tennessee Air National Guard works hand in hand with the United States Air Force deploying throughout the world in a seamless operation. Tennessee has the distinction of having three flying wings headquartered in the Volunteer State: the 118th Airlift Wing in Nashville, the

134th Air Refueling Wing in Knoxville, and the 164th Airlift Wing in Memphis. The 119th Command & Control Squadron in Knoxville is one of the first Air National Guard units to become a part of the United States Space Command, effective in 2002. The 228th Combat Communications Squadron and the 241st Engineering Installation Squadron deploy worldwide to provide combat communications for forces throughout the world.

## **Statutory and Constitutional Objectives**

The National Guard is provided for in Amendment 2 to the Constitution of the United States. This militia clause of the constitution provides for the various individual states to recruit and train a militia force to serve their respective governors and to be trained and available to defend the United States when called to federal duty by the President.

Tennessee Code Annotated, Title 58, Chapter 1 provides for the Tennessee National Guard to be formed under the Military Department.

## **Mandated and Optional Services and Means of Providing Them**

TCA 58-1-201 and TCA 58-1-204 mandate all services provided by the TNANG.

The Assistant Adjutant General for Air is part of the Adjutant General's staff located in Nashville and is the commander for all Air Guard forces in Tennessee. Air Guard forces consist of 3,640 personnel and 30 large frame aircraft. Tennessee's Air Guard is the fifth largest in the nation. The mission of this service is two fold: (1) to provide command and control of the Air Guard forces; and, (2) to provide direction for the implementation of administration, personnel, training, security and fiscal policy while providing a safe and healthy work environment.

Facilities Operations and Maintenance Agreement (FOMA) provides personnel and materials to operate and perform maintenance of buildings, grounds, roads, and parking lots. This service is performed under a cooperative agreement. The Facilities Operation and Maintenance Agreement between the National Guard Bureau and the State of Tennessee require the funding level be at a 75% federal and 25% state combination. An exception to this agreement is 100% federal funding when the facilities are operated for the National Guard Bureau. The National Guard has established a 100% federally funded facility at the Knoxville base that is identified as the Training and Education Center (TEC). The TEC is a school operated for all Air Guard personnel from every state, commonwealth and possession. Classes are conducted all year with class duration from a few days to as long as seven weeks. The school can accommodate up to 420 students at one time. All Air Guard facilities are constructed with 100% federal funding.

Security services consist of 36 state personnel responsible for protecting assigned aircraft and facilities from terrorist activities or other malicious damage or destruction.

Fire Protection delivers a service responsible for providing fire/crash rescue protection for the assigned aircraft, aircrews and facilities. In addition, this service provides fire inspection of facilities and fire prevention and safety training to assigned personnel.

Environmental Program Management service consists of three state personnel providing environmental support for each base, including acquisition of supplies and services, and other

necessary actions to accomplish environmental projects, services and program management. Also, this service ensures compliance with state and federal laws and regulations.

Family Assistance provides aid to wing leadership in establishing and maintaining a family readiness support program for the wing and geographically supported units.

### **Performance Standards**

1. Facilities Operations and Maintenance Agreement processing and completion of 90% of work orders received annually.
2. Respond to all fire and medical emergencies within federal time standards (3-4 minutes).

### **Performance Measures**

1. Percentage of work orders completed.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
96%	83%	90%

2. Percentage of responses meeting time requirements.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

Not Identified

### **Means of Overcoming Obstacles**

Not Identified

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

All Military Department revenue (state, federal, or other) has been appropriated to support a specific budgeted program. When federal and state funds are mixed, the mix is identified and specified. At times, TNANG is able to alter a requirement to spend federal rather than state funds on a service. For instance, TNANG has been successful in funding some homeland security requirements with federal instead of state funds.

### **Means of Avoiding Unnecessary Cost and Expenditures**

Management oversight is the primary method used to insure that unnecessary cost and expenses are incurred. TNANG continues the process of monitoring the review of actual expenditures to

assure proper application of the available federal resources into the correct programs and compliance with federal/state agreements that call for precise percentage amounts in each category of funding. TNANG carefully budgets and projects for the proper ratio of federal/state funding as required by the mandated programs. TNANG exercises careful scrutiny and control over expenditures to guarantee that state and federal parties realize maximum returns without any losses or misuses of funds.

## **Future Challenges and Opportunities**

The Military Department will continue to be challenged with new and different military missions. Changes in missions cause changes in personnel and funding. Across the state, there are many facilities deteriorated to the point that they are no longer cost effective to maintain. The State of Tennessee is essentially responsible for the maintenance of these facilities. Hard decisions with political overtones must be made in consolidating, rearranging, and constructing armories as new and different missions arise.

Tennessee must be willing to resource maintenance funds for the upkeep of needed facilities in areas that have a sufficient recruiting base to properly man new and more sophisticated missions as they become available. Larger and more missions for the Tennessee Guard contributes more federal funds to the state. These missions also come with commitments. Consequently, the state must provide adequate resources to ensure the successful completion of the mission.

## **Performance Data Schedule**

This data is published monthly.

## **Data Verification**

Data is on file at each of the air bases civil engineering work control center and is verified by the facility manager at each location.

## **341.07 Armories Maintenance**

The armories maintenance program is responsible for 4,395,962 square feet of armory space contained in 975 buildings. These facilities provide support for the Tennessee Army National Guard program soldiers and civilians. Military personnel work, train, and house their equipment at these facilities for emergency peacetime operations or for massive deployments. Some of the deployments are to forward areas in time of war or turmoil, as directed by the Governor of the State of Tennessee or the President of the United States.

The Department of Military is mandated by law to utilize state funds to maintain these facilities.

## **Statutory and Constitutional Objectives**

The National Guard is provided for in Amendment 2 to the Constitution of the United States. This “militia clause” of the constitution provides for the various individual states to recruit and train a militia force to serve their respective governors and to be trained and available to defend the United States when called to federal duty by the President.

Tennessee Code Annotated, Title 58, Chapter 1 provides for the Tennessee National Guard to be formed under the Military Department. TCA 58-1-206, Maintenance of National Guard units, provides for adequate armories, bases, camps, target ranges and other facilities that supports military operations, training and related services.

## **Mandated and Optional Services and Means of Providing Them**

Armories or Readiness Training Facilities are mandated by TCA 58-1-206. These facilities must be available to house, equip, support, train, and act as a storage facility for federal/state National Guard personnel who have both a federal wartime mission and a state peacetime mission with the Governor as the peace time Commander-in-Chief. Armories are built with both federal and state funding mixes to meet the federal and state mandates. Armories must continue to be controlled by the federal/state entities to assure their readiness and availability during times of great emergency or times of actual war within or upon the country.

## **Performance Standards**

1. To maintain facilities in accordance with U.S. Army standards.

## **Performance Measures**

1. The percentage of Military Department Army Guard facilities meeting U.S. Army standards.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
66%	66%	66%

## **Obstacles to Meeting Objectives and Delivering Services**

Inadequate funding of the facilities maintenance and upkeep is the biggest obstacle of the program. The current available state funding allows less than \$0.20 cents per square foot while the regional average for maintaining these type facilities is approximately \$9.00 per square foot. Presently, within each fiscal year, Military utilizes all of its maintenance funds by December for strictly emergency maintenance. The Department currently has approximately a \$10,000,000 backlog of needed repairs to Military Department facilities. The Department has requested for this massive backlog to be addressed annually by funding \$1,000,000 per year over the next ten years. The backlog of required maintenance must be funded in order to complete the backlog promptly or facilities will continue to deteriorate causing greater damage to existing facilities and incur greater costs. Once the Department brings facilities to the proper level of repair only routine and preventative maintenance will be required. The Department Military needs to project



and maintain the proper amount of funds to ensure adequate resources to continue services, even during periods of extreme temperatures that would drastically increase the average monthly budget expenditures. Evaluations will be conducted of all existing facilities for replacement through the Capital Outlay Program to determine when it is no longer cost effective to complete repairs and refurbishments. Then, projections for a new facility can be made through the Capital Outlay Building Program.

### **Means of Overcoming Obstacles**

To overcome obstacles, adequate funds are required to perform scheduled maintenance of facilities. Obstacles will be overcome by proper administration and stringent controls over all available resources. This ensures that resources are applied correctly to meet the most pressing and highest priority missions. Obstacles will also be overcome by assuring that adequate, complete, and accurate budget forecasts are developed, and essential requirements are understood by the funding entities through proper and complete justification of need. Forecasting for new facilities prior to existing facilities completing their useful life will help mitigate some of the obstacles mentioned above. New facilities, once built, will have more modern state of the art energy efficient cost savings type equipment and; therefore, help realize savings.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department must have the 25% state funds readily available to ensure uninterrupted operation of existing programs requiring a 75% federal/25% state mix of funds. Federal appropriations have a three month window beyond state funds that close on June 30. Department Military, as keepers of both type resources, must work expeditiously to keep federal and state types of funding in the budget and working at all times.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Management oversight is the primary method to insure that unnecessary expenditures are not incurred. The Department continues the process of monitoring the review of actual expenditures to assure proper application of the available federal resources into the correct programs and compliance with federal/state agreements that call for precise percentage amounts in each category of funding. The Department carefully budgets and projects for the proper ratio of federal/state funding as required by the mandated programs. The Department of Military exercises careful scrutiny and control over expenditures to guarantee that federal and state parties realize maximum returns without any losses or misuses of funds.

### **Future Challenges and Opportunities**

The Military Department will continue to be challenged with new and different military missions. Changes in missions cause changes in personnel and funding. Across the state, there are many facilities deteriorated to the point that they are no longer cost effective to maintain. The State of Tennessee is essentially responsible for the maintenance of these facilities. Hard decisions with political overtones must be made in consolidating, rearranging, and constructing armories as new and different missions arise. Tennessee must be willing to resource maintenance funds for the

upkeep of needed facilities in areas that have a sufficient recruiting base to properly man new and more sophisticated missions as they become available to Tennessee. Larger and more missions for the Tennessee Guard provide more federal funds to the state. These missions also come with commitments. The state must contribute adequate resources to ensure the successful completion of the mission.

### **Performance Data Schedule**

The performance data schedule will be monthly data in keeping with various state sponsored reports of financial transactions in areas of utilities, maintenance, work orders, state versus federal funds comparisons, etc. Management will implement the appropriate measurement for all processes at least on a monthly report schedule.

### **Data Verification**

Senior Management will obtain the data from professional sources. The Department's measurement statistics and reports will be monthly and cumulative. They will be a record of service for all to review and verify.

## **Emergency Management**

### **341.04 Tennessee Emergency Management Agency (TEMA)**

This program provides for the duties and responsibilities of the Tennessee Emergency Management Agency as stated in the Tennessee Code Annotated, the Federal Stafford Act and the Tennessee Emergency Management Plan (TEMP). The Tennessee Emergency Management Agency is administratively a division of the Tennessee Department of Military. TEMA was initially organized in 1951 as the Tennessee Office of Civil Defense. Over the years, TEMA has been modified into its present authority through Chapter 2, Title 58 of the Tennessee Code Annotated (TCA 58-2-101 through 58-2-518).

The mission of TEMA has greatly expanded to now include natural and manmade disasters. Floods, tornadoes, winter storms, and earthquakes all now compete for resources, manpower and planning time with terrorism, weapons of mass destruction, bio-chemical, radiological and transportation incidents. Hazardous materials, with their transportation, storage and production, now occupy a major role in TEMA's mission. The introduction of two major fixed nuclear facilities in the Tennessee Valley has expanded TEMA's role in the emergency planning and evacuation of thousands of Tennesseans.

With the expanded threat and risk of terrorism after the Desert Storm conflict in the early 1990's and the initial World Trade Center Bombing in 1992, TEMA has been the point agency for response, planning, and recovery to hundreds of new missions that might affect infrastructure targets or citizens in Tennessee.

TEMA is composed of several major Directorates (Plans and Training, Radiological, Operations, Administration) located at the Department of Military headquarters (Houston Barracks) in Nashville, and three Regional Offices (Maryville/Alcoa, Jackson and Smyrna) that house the County Area Response Coordinators.

## **Statutory and Constitutional Objectives**

Numerous Federal Registers and Code of Federal Regulations (CFR) guide TEMA. TEMA is authorized and tasked by TCA 58-2-101 through 58-2-518. This authority mandated TEMA to establish and develop a state-wide emergency management system at the state and local levels which will provide the capability to mitigate against, respond to, recover from and prepare for all man-made and natural emergencies or disaster that might affect the government or citizens of the state. Numerous federal and quasi-governmental contracts also provide responsibilities and tasks for TEMA.

## **Mandated and Optional Services and Means of Providing Them**

As an administrative division within the Department of Military, the Director of TEMA serves under the Adjutant General but is appointed by the Governor as specified by TCA 58-2-104. The TEMA Director becomes the operating officer in charge of all state government resources and manpower when the Governor declares a State of Emergency due to disaster conditions.

Within the TEMA Directorates, Operations is responsible for the State's 24 hour a day, 7 days a week emergency warning, communication and response point. Operations officers coordinate incidents and missions with local, state and federal agencies as well as private sector businesses and research organizations. This section maintains secure communications systems that provide Homeland Security interoperability between the Governor and the White House and related federal agencies. The State Emergency Operations Center (SEOC), which houses the Operations section, provides the needed communications systems needed by the Governor to direct state government in accordance with the Tennessee Emergency Management Plan (TEMP) as outlined in TCA 58-2-101 through 58-2-518.

TEMA is responsible for management of the Title III, SARA Superfund Amendment and Community Right-To-Know Act 1986, for the State of Tennessee. Title III allows for the tracking and record keeping of all hazardous materials that are produced, stored or transported within the state.

TEMA provides the management and personnel to implement the State and Local Assistance (SLA) service to the local governments throughout the state. This is a federal pass-through funding service that provides participating local jurisdictions with a matching fund to establish a local emergency management system in their community. Approximately 55 counties participate leaving 40 counties to utilize volunteer personnel and TEMA Area Coordinators to respond and recover from disasters in their communities.

TEMA also provides hazardous materials training for first responders in every jurisdiction in the state. Approximately 3,000 students complete TEMA training courses each year that are funded by the federal Department of Transportation, the Department of Justice, the Department of Homeland Security, and FEMA.

Partnering with TVA and the Department of Energy, TEMA provides emergency management planning and evacuation planning for the Sequoia and Watts Bar Nuclear facilities and the Oak Ridge National Laboratories. Training for first responders, hospitals, health care facilities, transportation operators fall within this scope of work.

TEMA is responsible for administering all federal and state funds provided to eligible applicants for recovery from presidentially declared major disasters and emergencies. These funds are available to local governments and state agencies as well as individual victims. In the past 10 years, these funds have surpassed \$250,000,000 in benefits and reconstruction, providing assistance to every county jurisdiction in the state and thousands of citizens.

### **Performance Standards**

1. Within federal guidelines, all emergency responders must be notified and begin response within 15 to 45 minutes.

### **Performance Measurements**

1. Percent of all emergency responders meeting federal time standards.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

TEMA is charged with overseeing the transporting of hundreds of truck and barge shipments of hazardous materials and radiological materials across and into the state on a daily basis. Most of these shipments go directly through major population areas and almost all shipments pass through rural, isolated areas that have no resources or manpower to respond effectively to a major hazardous materials emergency. Each year for the past decade, the shipments have significantly increased and the risk of accidents or dangerous incidents has increased proportionally. The federal government continues to allow low-level radiological waste to be shipped from over a hundred nuclear reactors in the Eastern United States to temporary storage at the Oak Ridge Reservation. Nuclear fuel and weapons-grade materials pass through to various sites both east and west.

The State of Tennessee has never passed any of the cost for inspections and emergency management response to the shippers or the producers as do 38 other state governments, including all states surrounding Tennessee. This seriously handicaps TEMA's ability to timely and adequately organize and manage response to these potentially devastating threats.

Another obstacle to meeting goals and objectives of TEMA is the lack of a consistent funding mechanism allowing for capital improvements and technological equipment acquisitions. Scheduled telecommunications and bio-chemical response equipment replacement and refurbishment have been reduced. This leaves most of the state highly vulnerable to Homeland Security and terrorism risks.

Budget reductions make it difficult to recruit and retain highly skilled radiological, bio-chemical and planning instructors, responders and managers.

One-time or single year federal grants provide some budget relief but do not allow for any continuity or planning that would stabilize efforts to meet agency objectives. Computer systems and software needed to streamline and increase efficiency in delivering financial assistance to disaster victims is routinely cut from budget requests. Communications equipment needed to overcome interoperability between first responders is pared from state budget requests. These two specific areas of need reduce the capability of the agency to deliver the most effective and timely services to disaster victims.

### **Means of Overcoming Obstacles**

Tennessee government must consider issuing permits to transporters and producers and storage facilities of hazardous materials. The state can adequately inspect and provide emergency planning and respond to incidents that might affect the citizens involving chemicals or radiological materials. TEMA cannot continue to provide the highest level of response time and adequate resources needed to meet these risks without some type of state funding process. TEMA presented to the General Assembly proposed legislation in 2000, that would have created a hazardous materials Emergency Response Trust Fund. This trust fund would have imposed a schedule of minor fees and permits for producing, storing or transporting Title III, Right To Know Hazardous Chemicals in Tennessee. The General Assembly agreed on the need for a trust fund but could not agree on the fee schedule. The statute that would have established the fund failed to pass at the close of the session. Most of the contiguous states to Tennessee have these fee schedules in place at present. Now is the time to look at this issue again before a terrible incident occurs.

Working with administration and legislative leaders can lead to sources of stable revenue that can provide continuity to the emergency management system in all communities.

Partnering with private industries may provide opportunities to create sources for training and equipment renewal. By forming cooperative response systems, economies can be made for state and local governments and industries.

Rather than creating separate response systems and dual equipment caches, Military feels it would be beneficial to integrate all public and private emergency response systems with a single command management, i.e. TEMA.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

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### **Means of Avoiding Unnecessary Costs and Expenditures**

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Rather than creating separate response systems and dual equipment caches, Military feels it would be beneficial to integrate all public and private emergency response systems with a single command management, i.e. TEMA.

### **Future Challenges and Opportunities**

TEMA will be faced with increased foreign and domestic terrorist activities and bio-chemical weapon and disease incursions. The hazardous materials response and handling increase will be one of the most critical issues facing the everyday safety of millions of Tennesseans. Without immediate attention to the needs of TEMA, these problems will only increase. They will not go away.

If the federal or state share of revenue continues to decline or is ultimately reduced permanently, the agency could be critically affected. Rising costs of response equipment and technology advances could render the agency unable to perform its statewide mission. Since natural disasters, bio-chemical and radiological terror risks have drastically increased, government and private funding of emergency services is critical to achieve the mission.

At present, the agency feels that its objective of providing the highest quality service to disaster victims as timely and humanely as possible is still an attainable goal. Providing the quickest and most efficient disaster response assistance to local governments is and will remain the highest priority.

Guiding the Department's future mission is TEMA's pledge to provide emergency management and mitigation planning strategies to local county executives and to provide the fastest grant analysis and processing so that pass-through funds will get to community first responders in the timeliest manner possible.

### **Performance Data Schedule**

The Federal Emergency Management Agency performs a quarterly audit on the Emergency Management Performance Grant (EMPG) that it awards to TEMA each fiscal year. Each quarterly report is graded and then returned to the state as either acceptable or not acceptable. The performance of the agency is the determining factor in granting of the next fiscal years grant.

The TVA and the Department of Energy grants are yearly performance based contracts that are graded and then evaluated during the negotiations for contract renewal (normally a three to four year contract period).

## **Data Verification**

Not Identified

## **341.09 TEMA Disaster Relief Grants**

This program is responsible for administering all federal and state funds provided to eligible applicants from presidentially declared major disasters and emergencies.

## **Statutory and Constitutional Objectives**

A presidential or major disaster declaration invites the entire federal array of disaster response services, including grants, loans, counseling services, etc.

Currently, there are no provisions in state law that authorize the State of Tennessee to provide any type of assistance, other than referrals to private or non-profit organizations. A disaster must rise to the level of a presidential declaration for them to receive funds.

Tennessee Code Annotated (TCA) 58-2-109 gives the authority needed in order to receive and administer federal aid regarding disasters and emergencies.

## **Mandated and Optional Services and Means of Providing Them**

Administration of federal aid and assistance due to the declaration of a presidentially recognized disaster or emergency is pursuant to TCA 58-2-106.

If a presidential declaration is received, FEMA and the state jointly establish a centrally located Disaster Field Office (DFO) to coordinate the provision of assistance to local governments and the citizens of the state. State Human Services personnel immediately begin processing claims filed over FEMA's toll-free assistance numbers. The TEMA Public Assistance staff begins the process of assessing the damage to local infrastructure. A host of other programs are initiated and coordinated from the DFO. A DFO will consist of anywhere from 50 to 250 personnel from the state and federal governments (and occasionally some quasi-governmental agencies). Public assistance also helps government and certain not-for-profit organizations repair and restore damaged infrastructure and other public services back to their pre-disaster state. This includes the repair/restoration of bridges, public buildings, community centers, etc., that are monitored using project worksheets.

## Performance Standards

1. To provide public assistance to those affected by disasters.

## Performance Measures

1. Number of applicants.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
327	75	75

2. Number of project worksheets for disaster related restoration and repairs.

Actual (FY 2002-2003)	Estimated (FY 2003-2004)	Target (FY 2004-2005)
1,367	415	415

## Obstacles to Meeting Objectives and Delivering Services

Local governments are responsible for compiling an initial damage assessment. This process occurs during the response phase of any emergency. This information is passed to the State EOC where it is compiled into a spreadsheet for review. This allows the agency to determine the extent of damages across the state.

Several things may cause a variance in the actual projections of a disaster. The Department may not have complete information from the federal government regarding the disaster. Hidden damage may exist aside from what was actually accounted for in the project. Counties may experience lag time due to multiple disasters in one county, calling for an extension of the closing date of the first disaster to respond to the second one.

## Means of Overcoming Obstacles

TEMA has to provide adequate staff to be able to interact with the federal assessment teams during and after the disaster time period in an effort to provide the most time-effective grant approval and distribution assistance to victims and local government. Allocating additional personnel to these state-federal assessment teams to meet with local county executives and other officials is critical to the grant approval process. Having adequate transportation and travel to facilitate these teams is critical to grant success.

## Means of Maximizing Federal and Other Non-State Sources of Revenue

This program is primarily funded using federal dollars for emergency response and through partnership are private and non-profit agencies that also provide disaster relief assistance.

TEMA works with the Volunteers Active in Disasters (VOAD) a state-wide community service organization made up of 42 public assistance groups such as: American Red Cross, Salvation Army, Second Harvest Food Bank, Baptist Men's Feeding Group, Church of Christ, United



Methodist, Seventh-day Adventists and many others. VOAD works with TEMA to form a safety net to help assist those disaster victims who, for various reasons, do not meet the strict procedures needed to qualify for federal grant assistance under the Stafford Act. TEMA works with VOAD to manage and distribute donated goods and resources from warehouse locations in the disaster communities. These are distributed to the victims at no cost. The state and federal government contribute no funds to the VOAD mission of finding and assisting these unmet needs programs that grow larger with each successive disaster mission.

### **Means of Avoiding Unnecessary Costs and Expenditures**

If TEMA continues its cooperation with FEMA on disaster assistance assessment and project grant management it can continue to serve the victims at the highest level. If TEMA is denied adequate staffing and means of travel, the state and local governments will experience a degradation of the quality of service. The quick turn-around time on disaster recovery funds distribution will not be as timely or beneficial.

### **Future Challenges and Opportunities**

For TEMA to continue its national leadership role, it will be imperative to continue to provide the level of service approved by the state at present. This will include staffing and vehicles needed to provide inspection and approval and evaluation and oversight of each disaster assistance grant in each of the 95 counties and hundreds of other municipal jurisdictions and state departments.

### **Performance Data Schedule**

At present, there is no data performance system by which FEMA grades the grant process. FEMA is in the process of designing a new national program to be called NEIMS (the National Emergency Information Management System) for the Office of Homeland Security. Once NEIMS is completed and TEMA has implemented the system, it will provide a daily, accurate accounting of the status of each grant. TEMA will then be able to show a percentage rating on its success rate and how high a performance level it has sustained for the past three decades.

### **Data Verification**

Whatever system may be used to verify data, such as NEIMS, will certainly be adopted and accepted as quickly as possible. This adoption may entail TEMA asking the state for matching funds to begin the start-up and enabling of such a system.

# **Department of Safety**

## **General Agency Information**

The Tennessee Department of Safety (TDOS) is responsible for ensuring the safety and general welfare of the traveling public. The Department's general areas of responsibility include:

1. Administration
2. Motor Vehicle Operations
3. Major Maintenance
4. Driver License Issuance
5. Highway Patrol
6. Auto Theft
7. CID Anti-Theft
8. Motorcycle Rider Education
9. Driver Education
10. Law Enforcement Training Academy
11. POST Commission
12. Titling and Registration
13. Technical Services

Approximately half of the employees are commissioned law enforcement officers, while the remaining are civilian employees. The Department has a strong local presence throughout the state, with its patrol areas and driver license stations, and with the county clerks who serve as the Department's agents for titling and registration.

During the past several years, the Department has generated \$300 - \$320 million in revenues, and anticipates \$327 million in revenues this current year. In FY 2003-04, TDOS expect to generate \$338 million, due to a continued expected increase in the number of vehicles and drivers in the state. Approximately 87% of the revenue generated by the Department of Safety goes to the highway fund and the general fund.

Though the primary focus is on highway safety, the Department's services extend to virtually everyone within the state's borders, including motorists and passengers, commercial motor vehicle firms and operators; students and teachers; attorneys and courts; financial institution; insurance companies; automobile dealers; employers; news media; and those needing photo identification or handgun carry permits.

Foremost among TDOS' public partners are the county clerks, other state and local law enforcement agencies, the Office of Homeland Security, the TN Department of Transportation and its Governor's Highway Safety Office, and the court systems. TDOS also works closely with federal highway safety officials, as well as private highway safety advocacy groups.

In summary, the Department of Safety is one of the most visible arms of state government. The programs touch virtually everyone in the state: neighbors, family and friends. The vital nature of the Department's legislative mandates makes it especially important for TDOS to be at the forefront of responsive, effective public service.

## **Administrative and Support Services**

### **349.01 Administration**

The administrative and support services area is responsible for the overall administration of the Department, including establishing rules, regulations and policies, and providing basic support services for departmental operations. Within 349.01 are the Commissioner and his immediate staff, Fiscal Services, Internal Audit, Human Resources, Supply, Internal Affairs, and the Legal Division.

### **Statutory and Constitutional Objectives**

In 1939, the Tennessee Department of Safety was established under TCA 4-3-2001 *et seq.*, with the general authority to assume and exercise the powers and duties of the Tennessee Highway Patrol under TCA 4-7-101 *et seq.* The Commissioner of Safety was granted the authority to establish and to promulgate such rules and regulations governing the administration and operation of the Department as deemed necessary. Over the years, the specific statutory mandates for the administration of the Department have expanded to reflect the duties added to the Department, as summarized in the opening section.

In addition, support services required for the execution of the Department's legislative mandates were also established within the Administration program. In the state's environment, these support services are functions both derived as necessary to carry out the objectives of the Department, and functions with their own legislative mandates applying to state government as a whole. Finally, the Americans with Disabilities Act, and the Federal Privacy Act govern the Administration program.

### **Mandated and Optional Services and Means of Providing Them**

The primary services of Administration involve the executive oversight of the entire Department, which is carried out by the Commissioner's Office (TCA 4-3-2002). In addition to overseeing the programs within the Department, this office initiates Department-wide strategies and goals, and sets priorities for their funding and execution.

As an example, a current Department-wide goal initiated by the Commissioner's Office is a focus on making it easier for more citizens and businesses to get what they need from the Department without having to come to one of the offices. Currently, people can use [www.tennessee.gov](http://www.tennessee.gov) to renew their driver licenses or change their driver license address, and businesses can subscribe to services that will provide data from the driver and vehicle records. In addition, the Department has detailed information about a driver's record available through several avenues, including an automated phone-fax option. As a third example, citizens can have their driver license address changed without visiting an office, either through an automatic link the Department has set up with the U.S. Postal Services, or through the phone, mail or Internet. The Public Information Officer coordinates the promotion of these efforts, as part of an overall communications strategy for the Department.

Other services include those of Human Resources, who ensure that the Department complies with various federal and state laws regarding employment; Fiscal Services, mandated to account for all revenues and expenditures; Internal Audit, required to comply with the Comptroller's standards for internal audits; Internal Affairs, which investigates all complaints concerning the Department's members; and TOSHA (Tennessee Occupational Safety and Health Act), which is required to establish a safe and healthy working environment for the employees of the Department.

In addition to these broad legislative mandates, the Legal Division administers asset forfeiture cases that arise out of the seizure of property pursuant to the Drug Control Act (TCA 39-17, Part 4 and TCA 53-11-201 451 *et seq.*, and 44-33-201 *et seq.*) and the Anti-Theft provisions of TCA 55-5-108 *et seq.* With an office in each of the three grand divisions, the Legal Division manages all aspects of these forfeiture cases, and represents the law enforcement agencies that seize the property. As an offshoot of this service, the Legal Division also provides training to law enforcement officers in this area of the law. Though not mandated by law, the training enables the law enforcement officers to prepare better cases, which in turn strengthens the Division's representation of them.

## Performance Standards

1. Add further avenues for citizens to access our Department's services without having to come to one of our offices.

## Performance Measures

1. a. Number of services available by Internet.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
6	8	10

- b. Yearly volume of Internet service transactions.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2,131,520	2,250,000	2,500,000

- c. Percent of driver license address changes made without visiting office.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
26%	28%	28%

## Obstacles to Meeting Objectives and Delivering Services

Since this program has executive oversight for all of the operations of the Department, the obstacles encountered by any of the individual programs within the Department represent obstacles to the Administration Program. Five may be highlighted here as central. First, the data the Department needs to enable fact-based, pro-active management decisions is not always readily available. Second, resources to obtain federal grants are limited, when full-time resources devoted to this effort would yield major funds for critical initiatives. Third, as the Department

moves more toward relying upon third party services, such as utilizing county clerks to issue driver licenses and utilizing outside testers, the capability to audit these services is less than desirable. Fourth, recruiting and retaining qualified employees is a challenge across the Department, particularly as a sizeable group of employees reaches retirement age. Fifth, training for supervisors, managers and employees has been curtailed for a number of years, the effects of which are apparent today.

### **Means of Overcoming Obstacles**

To overcome the lack of timely, accurate, accessible data, the Department is developing a focused plan, the first phase of which will be accomplished through simply identifying critical needs and utilizing methods available with current resources to begin filling any gaps. Obtaining federal grants will be facilitated by a new Department-wide focus for the Research, Planning and Development Division, which has the potential to partially meet this challenge. Improved auditing capabilities are possible through improved data, and through added duties or staff re-assignments, but this latter approach is limited by the fact that there really is little spare time to use for such assignments. Recruiting and retaining qualified employees is being addressed through working with the Department of Personnel on requests to change current testing requirements and/or qualifications for key job classes, through organizing recruitment efforts, and restructuring information now available on the Department's website.

Finally, to overcome the training gap, the Department has refocused its training center to include a training focus for non-commissioned as well as commissioned personnel. All internal training functions are now under one umbrella to ensure continuity and completeness of instruction. In addition, directors are encouraged to pursue non-traditional avenues of delivering training, such as distance learning and a computer-based orientation being developed by the human resources Division for both new employees and supervisors.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The only substantial source of direct revenue for this allotment code is that obtained through the collection of Cost Bonds required as a prerequisite for asset forfeiture cases handled by the Legal Division. Revenue has increased 30% this year with an increased number of cases. Revenues from these fees and other miscellaneous revenues fund approximately 6% of the budget for Administration.

From the aspect of obtaining resources for the Department's overall operations, TDOS has been generally successful, but as described above, believes that even more federal dollars could be won if specific resources could be dedicated to this effort.

### **Means of Avoiding Unnecessary Costs and Expenditures**

In addition to standard internal audit and cost control efforts, the Commissioner's Office meets regularly with senior staff to identify further efficiencies. Budget variance reports are issued monthly to the managers in each program area so they can determine if expenditures and revenues are within budgeted amounts. All purchases require section head approval; all over \$2,000 require the Commissioner's approval.

A cost accounting method is used to determine the most efficient and effective way to process back room work, such as keying titles, registrations, crash reports, and other data. Operational management techniques are used to analyze workflow and identify inefficiencies. A complete review of contracted communications devices (pagers, cell phones) has resulted in a 29% reduction of inventory. Flexible staff assignments are used to avoid overtime. Moving away from paper transactions to electronic ones is anticipated to result in cost-savings, as will moving toward more availability of Internet services for citizens and businesses. Finally, wherever possible, the Department encourages like functions to coordinate their operations. For example, when the staff inspections unit visits a highway patrol office, having the auditor travel along during the same visit and inspect records, will not only save in travel costs, but can result in a more productive review for all parties.

### **Future Challenges and Opportunities**

There are no known proposed federal mandates or lawsuits affecting the Administration program at this time.

### **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter.

### **Data Verification**

The monitoring processes put into place by TennesseeAnytime following the State of Tennessee guidelines and are monitored by the Portal Advisory Committee.

## **349.07 Motor Vehicle Operations**

Motor Vehicle Operations provides all commissioned officers with a vehicle to be used to enforce traffic laws on all state roads. The Department currently patrols 70,652 miles of state roads and interstates. The program also provides pool cars for other departmental staff to carry out their duties.

### **Statutory and Constitutional Objectives**

TCA 4-7-104(1) requires the Department to patrol the state highways and enforce all traffic laws.

### **Mandated and Optional Services and Means of Providing Them**

Motor Vehicle Operations directly relates to services to the taxpayers of the state including but not limited to traffic accident investigation, traffic enforcement, safety education, criminal interdiction, and vehicle theft investigation. Without an adequate and functioning fleet the Department would be unable to affect enforcement of required statutes, potentially resulting in

increases of fatality and serious injury on the state's highways and a lessening of homeland security measures.

Pool cars available to non-commissioned staff enable the Department to carry out such vital services as bus inspections and school bus driver training; attorneys going to drug seizure and DUI hearings for confiscated vehicles; repair of communication towers and radio repeater sites; computer services for equipment located all across the state; monitoring, training, and testing conducted by third parties; and depositing funds from driver license offices statewide. Pool cars are also available for the employees to participate in training, to pick up necessary supplies, and to carry out other related duties.

### **Performance Standards**

1. Replace pursuit vehicles at 85,000 miles.

### **Performance Measures**

1. Percentage of pursuit vehicles operating with mileage in excess of 85,000 miles.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
37%	30%	30%

### **Obstacles to Meeting Objectives and Delivering Services**

The major obstacle to the Motor Vehicles Operations program has been the inability to replace pursuit vehicles with mileage in excess of 85,000 miles, caused in part by budgetary constraints over the past several years. Delays in delivery also add 2,400 – 3,000 miles per pursuit vehicle for each month of delay.

### **Means of Overcoming Obstacles**

All vehicles, whether pursuit or pool vehicles, are required to maintain regular maintenance schedules to prolong their usefulness as much as possible. Until additional funding becomes available, pursuit vehicles are also scheduled for complete vehicle safety inspections at 95,000 miles, in an effort to maintain their safety within the limited means available.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department has obtained a grant to reimburse the Department for mileage when troopers enforce selected traffic programs. The Department will continue to request federal funds for mileage reimbursement. Including reimbursement of vehicle supplies, the total revenues generated are less than 1% of the budget of Motor Vehicle Operations.

The Commercial Vehicle Enforcement Division has had some success in the use of federal grant funding to purchase vehicles used in specialty programs related to truck enforcement. There are

no other known sources of federal funding for the purchase or maintenance of law enforcement vehicles.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Due to budget reductions implemented, TDOS reduced the fleet of vehicles by 45. In order to further control costs and to determine the propriety of trips, the Department requires that mileage be logged when the employees utilize pool vehicles.

In past fiscal years, the Department has attempted to identify any areas of the fleet that were operating at ineffective costs. In some cases, the Department has recommended additions to the fleet to replace older executive service vehicles in highway patrol districts.

### **Future Challenges and Opportunities**

When pursuit vehicles operate in excess of the 85,000-mile lifecycle, there is the potential of catastrophic crashes at pursuit speeds, subjecting the state to costly lawsuits. Replacing the vehicles at lower mileages would not only avoid crashes due to mechanical failures, but would avoid more costly maintenance likely with higher mileage and increase the resale value.

### **Performance Data Schedule**

The performance data for the Motor Vehicle Operations program will be published and available to the public 30 days after the end of each quarter.

### **Data Verification**

Data for the Motor Vehicle Operations program is monitored through the Fleet Tracker System.

## **349.12 Major Maintenance**

Major Maintenance provides funds for buildings, sites and departmentally specific items that are not covered under the Facilities Revolving Fund. This includes 43 communication sites (both radio towers and remote radio repeater sites) and such locations as the federally funded roadside commercial motor vehicle scale houses.

### **Statutory and Constitutional Objectives**

There are no statutory or constitutional mandates associated with this allotment code. This allotment code does indirectly impact emergency services rendered to the taxpayers. If operating or reserve funds were eliminated or reverted and proper maintenance was not performed resulting in equipment failure, officer survival or emergency medical communications could be jeopardized resulting in injury or loss of life.



## **Mandated and Optional Services and Means of Providing Them**

Vital services under this allotment code include maintenance and major equipment replacement at departmental radio repeater sites, which are not maintained by the Facilities Revolving Fund. The radio towers and remote repeater sites are located throughout the state. Some are shared variously by other state agencies, just as the Department of Safety shares various towers owned by others. This joint operation is coordinated through monthly meetings of the Tennessee Wireless Communications Council.

The Major Maintenance fund provides the fiscal means for the Department to maintain its communication sites. In the event of a catastrophic event such as a tornado or terrorist incident, this fund enables immediate repair/replacement of emergency communications. While risk management covers the Department's facilities, the waiting period to obtain replacement funding can be weeks or months.

The second major category of building maintenance funded through this program rather than through the Facilities Revolving Fund is that of the commercial motor vehicle roadside scale houses. These buildings were built and are maintained largely by the federal government's highway safety program and the Tennessee Department of Transportation. The scale houses provide a base of operations for the Department's commercial vehicle enforcement program, and are vital to its operations.

The program also funds departmental specific items in buildings maintained by the Facilities Revolving Fund such as additional security systems and locks, specialty mainframe computer HVAC units and special grounding devices.

## **Performance Standards**

1. Maintain communication sites so that reliable radio coverage is provided for TDOS law enforcement personnel.

## **Performance Measures**

1. Number of communication sites maintained.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
43	43	43

## **Obstacles to Meeting Objectives and Delivering Services**

The current set of communication sites was built at a time when light or medium duty towers were considered sufficient. This not only limits the degree to which the Department has room to grow and share the facilities with other agencies, it means that they are often at maximum capacity and more prone to failures.

While the dollars spent out of this fund are properly accounted for, the current paper-based system does not permit a ready accounting of how quickly any communication site-related problems are resolved.

### **Means of Overcoming Obstacles**

As funding permits towers to be replaced, the Department is building towers with more capacity. This year, the replacement towers at Lawrenceburg and Memphis will be heavy-duty towers.

To begin accounting for downtime at communication sites, this program will be able to utilize a new computer-based inventory system planned for this year. Once the Computer Aided Dispatch system is extended statewide, further performance statistics will be readily available.

To avoid unnecessary delays in communication site repairs, the program makes every effort to maintain adequate reserves in the Major Maintenance budget.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There is no revenue generated for this allotment code, and there is no known source of federal funding for the maintenance of buildings and other facilities not covered under the facilities revolving fund.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Purchase orders for parts, materials and contract labor as needed are carefully monitored and reviewed by the entire chain of command at the Support Services Division. Whenever possible, the program utilizes inmate labor and furnishings from the state's warehouse. Recently a departmentally specific office reconfiguration that was estimated to cost \$7000 using normal procedures was accomplished for \$700 using the no frills approach.

### **Future Challenges and Opportunities**

Adequate funding will be required to maintain 24/hour a day radio coverage for TDOS law enforcement personnel whose safety and effectiveness depend upon the ability to communicate, as well as to maintain buildings in order to provide a safe working environment.

### **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter.

## **Data Verification**

The Department of Safety Divisions of Budget and Internal Audit monitor all equipment and materials use and purchases. Critical equipment of great value is tagged and listed on the state POST system.

## **Drivers License Issuance**

### **349.02 Driver License Issuance**

Driver License Issuance issues driver licenses, photo identification licenses, and handgun carry permits. In addition, the program partners with County Clerks to offer selected services through their offices.

### **Statutory and Constitutional Objectives**

The Classified and Commercial Driver's License Act (TCA Title 55 Chapter 50) provides the statutory mandates governing Driver License Issuance; 49 Code of Federal Regulations (CFR) regulates the Commercial Driver License Program; and TCA Title 39 Chapter 17 governs the Handgun Carry Permit process.

### **Mandated and Optional Services and Means of Providing Them**

The primary mandate of Driver License Issuance is to serve Tennessee residents requesting driver licenses or identification documents. These services include mandated activities encompassing vision, knowledge, and skills testing for both private passenger and commercial motor vehicle operators (TCA 55-50-322; 49 CFR, Part 383), as well as mandates regarding voter registration (TCA 2-2-201), organ donor awareness (TCA 55-50-352), selective service registration (TCA 55-50-205), reinstatement of driving privileges (TCA 55-50-502), and the issuance of the actual photo and non-photo documents (TCA 55-50-335). The program is also mandated to serve residents requesting handgun carry permits (TCA 39-17-1351), a service that includes qualifying the applicants as well as issuing a photo document similar to the driver license document. The newly designed digitized documents have received praise from citizens, law enforcement and retailers for their enhanced readability and security features.

The program's core services are provided to Tennessee residents through the Division's operation of 44 statewide locations in 37 counties. Most of the stations offer a full range of services, including not only the issuance of driver licenses, but also handgun carry permits, certified driving records and information regarding requirements for reinstating a cancelled, suspended or revoked driver license. Nine of the stations have examiners trained to reinstate a driver license as well. The federally mandated knowledge tests for commercial driver licenses (CDL) are offered at all locations; the more extensive CDL skills tests, which require expensive test pads and specially trained CDL examiners, are offered at eight locations.

For citizens simply needing to renew or replace their license, Driver License Issuance has three offices designated as express offices, and is expanding its partnerships with county clerks so that an estimated 40 clerks will also be able to offer express services. These county clerks represent 27 counties where TDOS does not currently have an office. In addition to partnering with county clerks, Driver License Issuance partners with third party testers and accepts certified test results from CDL third party testers for the CDL skills test, from approved driver education programs for the Class D (regular operator) knowledge and skills tests, and from the Motorcycle Rider Education Program courses for the motorcycle knowledge and skills tests (TCA 55-50-203, TCA 55-51-107).

In addition to having offices across the state and arrangements with third parties, Driver License Issuance offers citizens a way to conduct certain transactions themselves, without having to come to an office. Licenses can be renewed and addresses can be changed by mail or through the Internet. Address changes can also be made by notifying the Department by phone.

Though not mandated, Driver License Issuance mails a courtesy renewal notice to drivers approximately two months before their licenses are due to expire.

To carry out the Handgun Carry Permit service, Driver License Issuance accepts these applications and fees at any of its 44 offices, and provides the customer with a toll free number to set up an appointment with a contract vendor for fingerprinting. The vendor then electronically submits the prints to Tennessee Bureau of Investigation/Federal Bureau of Investigation for the requisite background checks. The final review and approval of the handgun carry permit is processed in central office within the 90-day turn-a-round period mandated by law.

## **Performance Standards**

1. Issue license to non-test applicants within 15 minutes after examiner pulls the record.
2. Increase the percentage of driver license transactions conducted without the customer having to come to a driver license office.

## **Performance Measures**

1. Percent of non-test applicants issued license within 15 minutes after examiner pulls record.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
79%	82%	82%

2. Percent of non-test transactions conducted outside the office (via Internet, mail).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
23%	25%	27%

## **Obstacles to Meeting Objectives and Delivering Services**

While over time, the Driver License Issuance program has been able to upgrade and relocate many of its offices, there are still some that are poorly located and/or that have inadequate

workflow space. The federally mandated CDL (Commercial Driver License) has inadequate skills testing pads at two of the eight CDL Test Locations.

To stretch staff resources, the Driver License Issuance program relies increasingly upon third party sources to test commercial drivers and high school drivers and upon county clerks to issue selected licenses. While this addresses a key service problem, it creates an additional auditing task, for which the program does not have any dedicated positions. The outsourcing of the fingerprinting function for handgun carry permits has presented problems in coordinating this service, resulting in issuance delays.

The diversity of the clientele TDOS serve and the resulting language barriers, foreign customs and complexity of identification documents encountered can hamper the ability to provide efficient service. In addition, in the current climate there are increased security concerns and screening requirements for applicants seeking licenses or identification documents.

During the first few months of the fiscal year while outstanding issues regarding the new digitized driver license system are being resolved, customer service may be affected. The primary function of the new system, producing a newly designed digitized document, is working smoothly, but the integrated cashiering component and the centralized production facility have both experienced implementation problems.

### **Means of Overcoming Obstacles**

As leases expire, Driver License Issuance works closely with Finance and Administration Real Property Management to provide improved facilities. Current projects include an approved replacement facility in middle Tennessee, and a proposed regional facility for upper East Tennessee. This second facility would include a CDL Test Pad to correct one of the two inadequate test pads.

To compensate for less than ideal office locations and configurations, and to improve service in general, the program is utilizing flexible employee work hours and assignments, developing new procedures to shorten time in line. For instance, customers are greeted by an employee who checks to make sure they have the required documents before they get in line for services. In addition, the Department is using promotions and news releases to encourage customers to use the Internet and/or the mail for services such as license renewal and address changes.

Strengthening partnerships with county clerks (especially in the counties where no testing station is located) and expanding third party testers to more public, commercial and private schools for regular Class D testing (CDTP) and to more CDL third party examiners for the CDL testing helps with meeting the demand for services, while at the same time presenting a challenge for auditing. Auditing of the third party testers is currently being coordinated through the CDL Program Manager with existing state employees who have volunteered for the auditing task. These include CDL Examiners, Branch Supervisors, and Commercial Enforcement ACES Officers throughout the state. However, this actually creates another obstacle by pulling these employees away from their primary job focus.

To overcome coordination problems with the handgun fingerprint vendor, the program is establishing a means for the vendor to do the fingerprinting at driver license offices, instead of forcing the customer to go to a different location for that task.

Approaching the driver license experience from the customer's frame of reference, increasing customer relations training, and training employees in foreign document recognition and alternative languages are a few of the resources being used to meet the growing diversity of customer needs. Increased supervisory training in areas of interaction management, stress relief, customer service and similar skills is also on tap to support field personnel's needs. In addition, to address security concerns the program is phasing in the installation of security cameras, starting with the larger district stations in 2003.

The Driver License Issuance program, TDOS Information Systems and Office of Information Resources are all working diligently with the vendor to obtain full implementation of the digitized driver license functions.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department has applied for a \$300,000 grant to improve Commercial Driver License testing, added to the \$620,000 grant received last year. The handgun permit fees fund 100% of the handgun permit service. TDOS believe they are maximizing the fees received from motor vehicle reports, driver license application fees and handgun permit fees. Altogether, these fees will fund approximately 91% of the \$19 million Driver License Issuance Budget for Fiscal Year 2003-04. In addition to the fees retained for their budget, Driver License Issuance generates a further \$22 million in annual driver license fees, which are transmitted to the state's general fund. As a result, this Division generates revenues that are more than twice its expenditures.

### **Means of Avoiding Unnecessary Costs and Expenditures**

With the use of third party sources, TDOS is able to eliminate overhead costs associated with maintaining the Department's own facility and personnel in several areas. As an example, the Department is urging county clerks to begin issuing driver licenses that do not require a test, and promoting the use of third-party testers to shorten the service time for applicants who would normally have to wait for a test at the stations. These alternative means should prove both cost effective for the Department and more convenient for the citizens. Driver License Issuance also has established Funds Management Policies that all field staff must adhere to. Central Fiscal Office procedures and periodic Internal Auditing processes help manage the proper use of funds. TDOS also employ the standard practice statewide of flexible scheduling to help cut down or avoid overtime whenever possible.

### **Future Challenges and Opportunities**

The full impact of consolidating the driver license offices into 44 locations, supplemented with services by the county clerks, is still to be determined and will be closely monitored.

The Driver License Issuance program is currently meeting the requirements of a Federal Court Order pertaining to motor voter procedures. New federal election reforms are expected to affect these procedures.

The U.S. Patriot's Act may include more stringent qualifications for commercial drivers, including background checks, which will affect the operation of Driver License Issuance.

## **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter.

## **Data Verification**

The counter-time statistics will be compared to other reports generated by the Driver License Issuance program that show customers served, such as the standard monthly activity report, the fees reconciliation report, and the digitized license report. These numbers will be compared for internal consistency and reliability.

## **Enforcement**

### **349.03 Highway Patrol**

The Highway Patrol Program was established to protect the traveling public and is responsible for the enforcement of all federal and state laws relating to traffic in general and relating to the safe operation of commercial vehicles on Tennessee roads and highways. The program has grown to include a number of other significant services, devoted to such functions as school buses, auto-theft, and general protective, enforcement services.

## **Statutory and Constitutional Objectives**

TCA 4-3-2001 *et seq.* and TCA 4-7-107 set forth the duty of the Tennessee Highway Patrol (THP) to patrol the state highways and enforce all traffic laws; TCA 4-7-105 spells out their duty to enforce motor carrier laws (further defined in TCA Title 65, Chapter 15). TCA 4-7-114 charges the THP to aid in the enforcement of anti-theft laws (as provided by TCA Title 55, Chapter 5 and TCA 39-14-108).

In addition, federal laws and regulations governing this program include the Intermodal Surface Transportation Efficiency Act of 1991, the Surface Transportation act of 1982, and Federal Motor Carrier Rules in the Code of Federal Register (CFR), specifically 49 CFR Part 40 300-399, 571, 23 CFR Part 658, and 49 CFR Part 171-180.

## **Mandated and Optional Services and Means of Providing Them**

There are eight primary services within the Highway Patrol Program: the Tennessee Highway Patrol (THP), Commercial Vehicle Enforcement (CVE), Pupil Transportation, Criminal Investigations Division (CID), Capitol/Executive Security, Training, Professional Standards, and Communications.

The Tennessee Highway Patrol's broad mandate is to ensure the safety and welfare of the traveling public (TCA 4-3-2001 *et seq.*). Specifically, THP is required to patrol highways to

enforce all motor vehicle and driver license laws, and to assist motorists. Notable highway safety mandates include enforcing laws related to driving while intoxicated or drugged (commonly referred to as DUI laws). THP also investigates crashes involving property damage; personal injury or fatal crashes involving drugs or alcohol, with some officers specially trained to reconstruct traffic crashes. THP serves as the repository for all records regarding crashes, and provides a uniform crash report along with training and support for its use. THP also seizes property from those who are found to be driving on revoked licenses or transporting drugs. In addition, THP supports other law enforcement and criminal justice agencies by providing specialized training and manpower when needed, most notably of late in the arena of Homeland security, but also in such practical matters as traffic control for special events.

THP operates through patrol stations or posts in all 95 counties, organized into eight districts. Each district is headed by a Captain, and each has a communications dispatch office that serves both THP and CVE. Heading the command structure is the Colonel and his staff, located in Nashville.

Within THP are two special services, the Critical Incident Response Team and Special Operations. The Critical Incident Response Team was formed primarily to assist other members of the THP in the investigations and/or reconstruction of motor vehicle traffic crashes by having specially trained and equipped teams in four areas of the state. This team has also assisted many local and federal law enforcement agencies as well as other state agencies, and has recently assumed the duties of investigating all criminal homicides investigated by THP.

The Special Operations unit includes a Tactical Squad, an Aviation section, and a K-9 unit. The Tactical Squad is specially equipped and trained to function as a tactical police unit to provide the Department with a flexible, effective response to unconventional, high risk situations such as bomb threat assessment/containment, drug raids, high risk warrant executions, crowd control, demonstrations, large scale searches, disaster response, dignitary protection, civil disorders, barricaded suspects, escaped prisoners and hostage situations. The Aviation Section is responsible for all air support and related responsibilities for the Highway Patrol, as well as assisting cities and counties. The K-9 unit has dogs assigned to various commissioned offices, which are trained to either track or to detect drugs, cadavers, or explosives.

While involved in some of the activities described above for the highway patrol, Commercial Vehicle Enforcement (CVE) is primarily responsible for enforcing commercial vehicle laws regarding size, weight and safety requirements for commercial motor vehicles (TCA Title 65, Chapter 15). Also reporting to the Colonel's office, the CVE is headed by a Lieutenant Colonel in Nashville, and has four field divisions, each with a Captain, and a fifth Captain in Nashville overseeing the Pupil Transportation services. Currently, CVE's regulatory duties are carried out by staff located in Nashville.

Major activities for the commissioned CVE staff include inspecting commercial vehicles and driver logs, patrolling the highways with a focus on truck traffic violations, and weighing the commercial vehicles both at fixed roadside scale houses, and with portable scales along the highways. Taking a comprehensive approach to its mandate to improve commercial motor vehicle safety, CVE is adding a new focus on motor coaches and on commercial vehicles transporting hazardous materials. As a new federal requirement, the CVE ensures that new commercial motor carriers (called New Entrants) understand and are in compliance with federal motor carrier standards. Though not mandated, the federally recognized ACES (Alternative Commercial Enforcement Strategies) program educates commercial motor vehicle firms regarding safety issues.



The CVE service also includes the requirement to register and enforce interstate motor carriers with respect to licensing, fuel taxes, and insurance filings (TCA 55-4-121, 55-4-115, 67-3, 65-15-107 *et seq.* and 67-3-2308). Three separate agreements with other member jurisdictions (International Fuel Tax Agreement, International Registration Plan, and Single State Registration) govern the collection and disbursement of fuel taxes, registrations and permits, which the CVE administers. These agreements essentially allow commercial motor vehicle firms to declare one jurisdiction as their base state, rather than dealing with multiple jurisdictions in which they may travel. CVE has an audit section responsible for performing audits on carriers registered through the IFTA and IRP sections to insure they have paid the proper amount of registration fees and fuel taxes. CVE also regulates carriers that operate solely within Tennessee.

Within CVE, Pupil Transportation services are divided into two primary areas: training and inspections (Executive Order No. 45; TCA Title 49, Chapter 6, Part 21). Each year this section provides the mandatory four-hour school bus driver training sessions for public school systems. Drivers who fail to attend the training lose their school bus driver license endorsements. Throughout the year, this service also inspects all public school buses through routine, extended, spot check and follow-up safety inspections, and has recently been given the added responsibility of inspecting day care vans, beginning January 2004.

The Criminal Investigations Division (CID) is charged with investigating, preventing and prosecuting violations of Tennessee's auto theft laws (TCA Title 55, Chapter 5 and TCA 39-14-108). Through covert and overt operations, and through assistance to other law enforcement agencies, CID investigates suspected cases of vehicle theft, stolen vehicle parts trafficking, odometer fraud, and driver license fraud. CID offers specialized training to other state and local law enforcement agencies in identifying and investigating auto theft laws. This Division is also required to perform regulatory inspections of reconstructed vehicles. Though not mandated by law, assignments carried out by this Division that take advantage of their expertise include background investigations of applicants for departmental positions, and investigations into vehicular homicides. The CID service is organized with a Director in Nashville, and four divisions led by Special Agents in Charge.

Along with members of THP, Executive Security provides security for the Governor, Lt. Governor, Speaker of the House, Attorney General and other associated parties. The Capitol Security section focuses on the safety of state property and employees, providing special security for state office buildings in Davidson County, as well as protection of governmental officials and visiting dignitaries (TCA 4-3-2006, 4-3-1106).

Not mandated, but critical to the operation of the entire Department, the Department of Safety's Training Center primarily conducts basic and specialized training for the commissioned members of the Department. The center also offers specialized training to other law enforcement agencies, and coordinates the training of non-commissioned personnel. The Ordnance section within this service conducts firearms training and re-qualifications of commissioned members, and inspects and accounts for all weapons.

Mandated as the lead agency in Tennessee for Drug Abuse Resistance Education (D.A.R.E) and Gang Resistance Education and Training (G.R.E.A.T), the Department also implements the statewide D.A.R.E. program taught by trained law enforcement officers and helps educators reduce gang and individual violence through developing advisory guidelines (TCA 49-1-401 *et seq.*; 49-1-214).

Like Training, Professional Standards uses its expertise to support Department-wide initiatives or mandates. This service is responsible for preparing written policies and procedures (known departmentally as General Orders), some of which are required as a result of court decisions. Professional Standards also is responsible for the Department's mandated performance-based budget strategic plan and annual reports, for coordinating the work involved in maintaining law enforcement certification standards, for supporting grant applications and reports, and for general planning and research, including statistical analyses of crashes required by the federal government.

As a vital service, the Communications section maintains radio contact between all field officers and dispatch centers in the state, thereby providing emergency service to motorists and enabling officers to request support when needed. Communications is responsible for the design, procurement, installation, and maintenance of all communication sites (radio towers and repeater sites), portable, mobile, and fixed station communications equipment, and all other electronic equipment utilized by the Department of Safety.

### Performance Standards

1. Reduce the rate of highway fatalities.
2. Reduce fatalities involving large trucks.
3. Ensure statutory compliance for certification of school buses.

### Performance Measures

1. a. Number of highway fatalities in Tennessee.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,114	1,125	1,120

Fatality counts for FY 2002-2003 are preliminary.

- b. Highway fatality rate per 100 million vehicular miles traveled (VMT).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1.62	1.61	1.60

Includes preliminary data for 2003 fatalities described above.

- c. Number of DUI arrests by THP and CVE.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
4,623	4,662	4,662

2. a. Fatalities involving large trucks.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
132	129	129

Fatality counts for FY 2002-2003 are preliminary.

- b. Rate of fatalities involving large trucks per 100 million commercial vehicular miles traveled (CVMT).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2.16	2.13	2.10

Includes preliminary data for 2003 fatalities described above.

- c. Average number of days to upload commercial motor vehicle inspection data to Federal database.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
30	20	20

3. Ratio of school buses to school bus inspections.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1:1.4	1:1.4	1:1.4

### **Obstacles to Meeting Objectives and Delivering Services**

The ability to communicate by radio with other emergency/law enforcement programs and limitations with voice and data communications systems represent key obstacles for enforcement and management. Coordination with other agencies today relies upon relays among and between dispatchers. The radio equipment and most towers the Department's commissioned members rely upon can only be repaired with cannibalized parts, and has a number of dead spots across the state, where signals are not available. Data that officers need, regarding drivers, vehicles or crime information, is only available through the dispatchers. Report data is paper-based and thus delayed.

Stretching resources to provide adequate road coverage has been made more difficult by an unusually high number of unbudgeted special assignments, most notably those related to Homeland Security. In terms of US and state highway miles to patrol, of the surrounding states four have fewer highway miles and four have more. However, Tennessee field enforcement has proportionately more licensed drivers and registered vehicles than all of the surrounding states, except Alabama.

Offering commercial motor vehicle registrations only in Nashville requires trucking firms and independents to drive from all across the state, making the service inconvenient for them, and creating crowded conditions in the Nashville office. In addition, aspects of the registration/audit process are currently manual.

The scope of the requirement for the Department to inspect day care vans in addition to school buses is still not known.

Communication dispatchers and radio technicians are two critical support positions that are difficult to keep filled.

## **Means of Overcoming Obstacles**

Interoperability issues are still in the design and discussion phases. Regarding faulty voice communications, troopers/officers are familiar with the dead spots in their local areas, and compensate by knowing where the radio will and won't work until the problem can be remedied.

Regarding data communications, the Department is moving aggressively toward real-time data communications: including building out the 800 Megahertz (MHz) towers as quickly as federal money permits, and providing laptops, so that CVE inspections are electronically communicated immediately. For the 800 MHz project, the Department has now completed two of six phases, which provides 90% coverage of the middle-Tennessee third district, or about 17% of the state. The electronic data infrastructure is also being designed so that officers have direct access through their laptops to vital driver and vehicle information. This fall TDOS expects to implement a means of connecting various sources of government and business data, called Commercial Vehicle Information Systems and Networks (CVISN), which will allow all commercial motor vehicle stakeholders to exchange information and conduct business transactions electronically. More broadly, as discussed under Technical Services, TDOS is moving as rapidly as possible away from paper forms to electronic reports, both for crash reports and citations. The more timely and accurate the data TDOS has to work with, the more targeted the enforcement can be.

A Computer Aided Dispatch (CAD) system is being extended from a single operation to one serving the whole state. This system improves the ability of communications dispatchers to handle emergency calls, while also providing improved resource management, such as staff allocations and assignments. Altogether, CAD will not only enhance trooper/officer safety but also will capture key data electronically and streamline the largely manual report process.

Reducing Cadet training from six months to four months will allow Safety to place newly qualified personnel on the road in a more timely, cost-effective manner without compromising their training needs. In addition, using power shifts to assign troopers/officers at times and in areas where most needed, and a 28-day schedule to group assignments in blocks of 160 hours, permits flexibility and targeted enforcement. The CID agents are shifting the emphasis of their work to providing assistance to local agencies, in order to multiply the effect of their expertise.

CVE has begun offering on-line tractor-trailer registrations, and has many of the larger motor carriers now participating. The manual aspects of the registration/audit process are being addressed by a grant with the U.T. Center for Transportation Research.

Pupil Transportation is working with other state and federal agencies to clarify the scope of the new requirement to inspect day care vans, and to determine how the inspections can best be accomplished in conjunction with other day care licensing requirements and procedures.

The Human Resources Division is working with the Colonel's office to address the classification-compensation issues related to communication dispatchers and radio technicians.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department is continually seeking grant funds to aid the enforcement of traffic laws and motor carrier laws. The amount of federal dollars received from grants has increased over \$2,000,000 in the last five years. TDOS will utilize these federal funds to aggressively enforce

highway safety for both commercial vehicles and all other vehicles, which travel the state's highways. To the maximum extent possible, federal funds are leveraged to benefit all enforcement efforts. For example, the research, development and infrastructure upgrades funded by the federal government to enable CVE to replace paper-based reports with electronic communications will, in the long run enable THP to upgrade their processes as well. Similarly, a federally funded shoot house at the Training Center, built with federal funds for CVE officers, will benefit the whole Department.

To obtain federal money, the Department has to meet federal guidelines and standards, such as having timely crash data, and weighing a target number of commercial motor vehicles. As an example, meeting the federal standards of getting inspection reports uploaded within 30 days will mean Tennessee will be eligible to receive an additional \$280,000 in grant funds for commercial vehicle enforcement. Currently, federal and other miscellaneous fees fund approximately 11% of this allotment code.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Reducing new cadet training from six months to four months will achieve a 32% savings. The Department has reduced the number of mobile telephones issued to employees. In addition, TDOS is evaluating changing to a different type pager for the Department's employees that will save additional monies. Switching from overnight delivery to regular mail to deliver commercial registrations saves \$60,000 a year, and embossing the stamps on the registrations saves further money while adding convenience for the motor carriers. TDOS is also reducing uniform costs by purchasing them through another state agency, Tennessee Rehabilitative Initiative in Correction (TRICOR), which is a win-win situation for both agencies.

### **Future Challenges and Opportunities**

In the face of dwindling local revenues, a number of localities have approached the Department of Safety to discuss the possibility of having the Highway Patrol pick up some of the highway miles patrolled now by the local law enforcement.

A number of trends not specific to Tennessee may affect the safety of state highways. First, many are predicting a better economy, which historically means more vehicles on the road and more miles traveled, both of which adversely impact fatality statistics. Second, the National Highway Traffic Safety Administration recently released a study showing that rollovers of sport utility vehicles and pickup trucks accounted for nearly one-third of automobile fatalities, and are on the rise, mirroring the rise in their sales. And a recent court decision regarding the North American Free Trade Agreement (now under appeal) may affect the overall safety of state highways. In brief, commercial motor carriers from Mexico have been granted permission to travel freely around the country. Whether this will have any affect on Tennessee's truck safety is unknown at this time, but is noted.

Finally, the Federal Motor Carrier Safety Administration is proposing a Unified Carrier Registration project to consolidate registration identification numbers issued to motor carriers. Upon completion, this will require the CVE Division to make system and business operational changes. Full impact is not yet known.

## **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter. By its very nature, fatality data will be preliminary data in most cases. This aspect will be clearly defined in the published reports.

## **Data Verification**

A special unit within the Technical Services program focuses on ticket accountability, citations issued by THP and CVE. Data used for the fatality performance measures are sent to the federal government and are subject to their verification procedures. Field supervisors verify reports prepared by troopers/officers/agents. Commercial vehicle registration data are verified through site visits, manual logs and system generated reports.

## **349.06 Auto Theft Investigations**

Auto Theft Investigations provides operational expenses to support the Department's work, led by the Criminal Investigations Division, regarding vehicular thefts. This program is purely a self-supporting funding mechanism, with no positions.

## **Statutory and Constitutional Objectives**

TCA 55-5-108 *et seq.* specifies that property forfeited under the specific conditions outlined therein may be sold, with the proceeds retained by the Department for use in vehicle investigations. If the property was seized by a state, county or municipal law enforcement agency, the proceeds are to be divided equally between the Department of Safety and the cooperating agency.

## **Mandated and Optional Services and Means of Providing Them**

To manage property forfeiture as mandated (TCA 55-5-108), the Criminal Investigations Division establishes a tracking file for each vehicle or vehicular component part seized. The Legal Division then holds hearings, where it is determined whether the seized vehicle or seized vehicular component parts should be returned to the rightful owner (minus expenses) or sold. If the property is sold, the proceeds are then available to cover such operational expenses as tow bills, photo developing, and covert operational expenses. In some instances the Department is able to obtain reimbursement from an insurance company, with the proceeds again used for operational expenses.

## **Performance Standards**

1. Offset operational expenses for auto theft investigations through proceeds obtained as the result of selling seized property.

## **Performance Measures**

1. Percent of operational expenses for auto theft investigations funded through the sale of seized property.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
6.5%	8.2%	11.4%

## **Obstacles to Meeting Objectives and Delivering Services**

Two factors present obstacles to gaining the greatest benefit from this fund. First, the costs associated with towing, storing and investigating some vehicles can exceed their property value. Second, lack of security on the impound lots has resulted in a loss of property (either entire vehicles or valuable component parts), for which the state is then liable.

## **Means of Overcoming Obstacles**

Where appropriate, Auto Theft Investigations invests minimal resources in vehicles of little property value: for example, rather than recovering a burned out, rusted vehicle at the bottom of a ravine that has been reported stolen, the agents will notify the owner and/or insurance company of the vehicle's location. To overcome the lack of security on the impound lots, the program has obtained funding for new security systems. This allotment code also receives revenue from the sale of seizures related to covert operations that result in such seizures.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are not generally available for the Auto Theft Investigations program. However, reimbursement from insurance companies for vehicles recovered under this program is often obtained. The reimbursement serves as a source of operating revenue for the program.

## **Means of Avoiding Unnecessary Costs and Expenditures**

In addition to using discretion regarding the amount of resources invested in recovering vehicles, the Auto Theft Investigations program makes every effort to keep operational costs associated with the program down, by such avenues as utilizing wrecker services that win the highway patrol's lowest bid for services, and minimizing the time a vehicle is on a non-departmental impound lot where storage fees would be accumulating.

## **Future Challenges and Opportunities**

In falling or uncertain economic times, the numbers for thefts and insurance fraud go up. To the extent that more property can be recovered, the Auto Theft Investigations program can serve as a source of revenue for operations to combat these increases.

## **Performance Data Schedule**

The performance measure for Auto Theft Investigations will be published and available to the public 30 days after the end of each quarter.

## **Data Verification**

Data for Auto Theft Investigations is fiscal data, monitored and audited through the Department's fiscal and internal audit processes. Data could be more easily compiled and retrieved with more automation in record collection and time accountability data providing more reliable comparison through computer automation of CID.

## **349.14 C.I.D. Anti-Theft Unit**

The C.I.D. (Criminal Investigations Division) Anti-Theft Unit is set up to inspect all specially constructed and reconstructed vehicles, and funded by an inspection fee that re-builders and individuals pay to have their titles converted. This program is regulatory in nature, established for the purpose of combating theft.

## **Statutory and Constitutional Objectives**

TCA 55-3-208 requires the Department to inspect rebuilt motor vehicles prior to issuing a certificate of title.

## **Mandated and Optional Services and Means of Providing Them**

The primary customer for the C.I.D. Anti-Theft Unit is the re-builder who seeks a title for the salvaged or re-built vehicle. The re-builder first applies for the title through the Titling and Registration Division. Roughly two-thirds of these titles may be issued without inspection with the proper documentation attached, but those requiring an inspection are sent to C.I.D., where an agent is assigned to perform the inspection. Because re-builders are located throughout the state, and because both the state and the re-builder desire a timely inspection, all agents are trained to do these inspections. Having the local agent visit the re-builder not only saves time but also saves expenses. At the conclusion of the inspection, if the vehicle passes the title is issued or the original documentation returned to the re-builder whereby he can obtain the title.

## **Performance Standards**

1. Inspect salvage/rebuilt vehicles within 28 days of receiving request for inspection.



## **Performance Measures**

1. Percent of salvage/rebuilt vehicles inspected within 28 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	80%	80%

## **Obstacles to Meeting Objectives and Delivering Services**

Since this program is so tightly linked to the Titling and Registration program, it too faces the obstacle of delays in the delivery of the computer system being redesigned to support title and registration transactions. For example, the inspection requests and results are currently a manual process, adding both time and opportunities for errors.

In addition, the application fee (\$45.00) set by law in 1992 for each conversion of a vehicle salvage document to a rebuilt title, was calculated specifically to cover staffing and other operational costs involved in the enforcement of motor vehicle title and salvage laws and anti-theft inspection of rebuilt vehicles. In the intervening years, the fee has not been changed, while the costs of the program have risen. Doing the inspections well and doing them in a timely manner is hampered by the ceiling on resources by fiscal, personnel, and automation limitations.

## **Means of Overcoming Obstacles**

To address delays in processing the paperwork involved, as well as to overcome the obstacle of a dwindling revenue resource, the C.I.D. Anti-Theft Unit has begun to establish a means of automating key aspects of the inspection program working within the fiscal restraints that limit automation.

In the intervening years, the fee has not been changed, while the costs of the program have risen. The Department of Safety feels it is important to reevaluate the costs and move to have them revised.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The only revenue in this special revenue allotment code is the application fee for inspecting rebuilt motor vehicles, which is set by statute. TDOS is in the process of assessing the adequacy of the inspection fee of \$45.00, which has remained in place since the inception of the program in 1992, while expenditures to perform the inspections have gradually increased over the past eleven years. Fees from this dedicated source of revenue provide 100% of the state appropriation necessary to operate this program.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Training and utilizing all C.I.D. agents to be able to perform the required inspections is the most effective way of avoiding unnecessary costs and expenditures. Engaging in joint operations with other agencies also minimizes the program's costs.

## **Future Challenges and Opportunities**

Fees set when the C.I.D. Anti-Theft program was established are becoming less sufficient for covering program costs so the program may be headed toward a deficit in the near future.

## **Performance Data Schedule**

The performance measure for C.I.D. Anti- Theft Unit will be published and available to the public 30 days after the end of each quarter.

## **Data Verification**

The tracking files contain records to confirm the numbers reported by individual agents.

## **Education**

### **349.04 Motorcycle Rider Education**

The Motorcycle Rider Education Program (MREP) is responsible for establishing standards for and administering the motorcycle rider education program for Tennessee residents who currently ride or those interested in learning to ride motorcycles safely. This is accomplished primarily through overseeing two types of training programs, one for novice riders and one for experienced riders.

## **Statutory and Constitutional Objectives**

TCA 55-51-102 *et seq.* requires MREP to set standards and administer motorcycle rider training courses and instructor training and development.

## **Mandated and Optional Services and Means of Providing Them**

The MREP certifies and monitors Motorcycle Safety Foundation courses offered in Tennessee (TCA 55-51-102). The Basic Rider and Experienced Rider courses are taught in safe, off street environments where students learn and practice riding fundamentals as well motorcycle safety techniques. Motorcycle rider training is currently offered at 17 training sites statewide. Benefits of completing one of the Motorcycle Safety Foundation courses include insurance premium discounts and streamlined processing for the motorcycle license endorsement (TCA 55-51-106). With a certificate, those who apply for this endorsement on their driver license have both their knowledge and skills test waived in Tennessee.

The MREP coordinator also serves as Chief Instructor and trains, certifies, and monitors instructors (TCA 55-51-102 (b)). Annually, MREP provides a statewide in-service workshop for

certified instructors as part of their annual recertification process. Tools for instructional enhancement are presented during the training as well as legislative and national standard updates.

The law also explicitly permits the MREP to include general educational efforts promoting motorcycle safety awareness, motorist awareness, and combating impaired driver issues (TCA 55-51-102 (a)), which the MREP accomplishes through partnerships with various rider groups, at motorcycle industry events, motorcycle dealer open houses, and motorcycle enthusiast rallies, as well as through the Department's website. MREP aids local law enforcement agencies by providing them with training and information on enforcement issues such as proper personal protective equipment, proper license endorsements and unique alcohol and drug related behavior of motorcyclists. The staff also provides consultative services to the agency on issues such as motorcyclist licensing and driver improvement.

### **Performance Standards**

1. Increase enrollment in the Basic Rider and Experienced Rider education courses.

### **Performance Measures**

1. Number of students enrolled in a certified motorcycle rider education course.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
5,283	5,700	5,700

### **Obstacles to Meeting Objectives and Delivering Services**

Currently, there are no obstacles to meeting objectives or delivering services identified.

### **Means of Overcoming Obstacles**

Not Identified

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The only revenues in this allotment code are the fees derived from the issuance of motorcycle registrations and motorcycle driver licenses. The fees from these dedicated sources of revenue provide 100% of the state appropriation required to operate this program. At the present time, there are no known sources of federal revenue to enhance the activities of this program. MREP is in the process of investigating funding that may be available through the Motorcycle Safety Foundation.

### **Means of Avoiding Unnecessary Costs and Expenditures**

MREP partners with motorcycle dealers, personal protective gear manufacturers, and rider groups

to secure resources for safety awareness events and courses. For example, in an effort to communicate the benefits of helmet use, the program received 178 motorcycle helmets from a manufacturer for use in the rider education courses and public information events. Additionally to encourage riders to voluntarily use Federal Motor Vehicle Safety Standards (FMVSS) 218 compliant helmets, the MREP partnered with a local motorcycle dealer to offer FMVSS 218 compliant helmets at no charge to riders who turned in non-compliant helmets.

## **Future Challenges and Opportunities**

The recent amendment to TCA 55-8-110, allowing drivers of motorcycles to proceed through a red-light should the vehicle detection device become inoperative due to the motorcycle's size, presents both an opportunity and challenge for the program. This legislation provides an opportunity to expand rider safety education and awareness activities. The challenge lies in updating publications for use at public information events and education rider courses in a timely manner.

Currently, if a motorcyclist is found guilty of a traffic violation and subsequently ordered to attend traffic school the materials used or information presented is from an automobile driver's viewpoint. While the course provides general road safety techniques, it does not include information or techniques for motorcycle driving. An opportunity exists for both the motorcyclist and MREP by allowing the Experienced Rider Education course to serve as traffic school for motorcycle riders.

Additionally, based on driving trends there is an increase in motorcycles being sold, motorcycle licenses being issued, and injuries, crashes, and fatalities involving motorcycles.

## **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter.

## **Data Verification**

MREP management will review and compare enrollment reports submitted by the training sites with reports from the Driver License Issuance Division reporting the number of MREP waiver certificates and motorcycle license endorsements issued, when the Driver License Issuance data becomes available. In the interim, spot checks of individual records will be performed.

## **349.08 Driver Education**

Driver Education develops, promotes, and coordinates programs that increase public awareness of highway safety.

## Statutory and Constitutional Objectives

Driver Education encompasses a wide range of activities that have in common the advancement of public safety. TCA 67-4-606 requires Driver Education to promote safety of the highways. The authorization to set standards for and issue licenses to qualified instructors and commercial driving schools is set forth in TCA 55-19-101.

## Mandated and Optional Services and Means of Providing Them

The two mandated services for Driver Education are (1) promoting safety on Tennessee highways (TCA 67-4-606) and (2) regulating commercial driving schools (TCA 55-19-101). Primary means of fulfilling these mandates are through presentations, public service announcements, demonstrations, and inspecting and licensing commercial driving schools statewide.

Driver Education is a critical component for improving highway safety. Working closely with the Department's Public Information Officer, Driver Education uses news media, pamphlets, film video tapes and other instructional materials to educate the motoring public in the safe operation of a vehicle. Utilizing local and statewide crash data, this Division also develops locally appropriate safety messages and safety training events. Proper use of Child Restraint Devices (CRD) demonstrations, rollover simulations, computer program simulations, and fatal vision goggles demonstrations are held at schools, malls, fairs, and other special events throughout the state to promote driver safety issues. Partnering with the Governor's Highway Safety Office, the Division has been able to launch intensive DUI campaigns. Other partnerships, such as that with Vanderbilt University for CRD demonstrations, are formed to get driver education messages out as widely as possible.

Annually, the Driver Education program inspects private driving schools statewide that are licensed by the Department. Related duties include processing applications and fielding calls from individuals who are interested in starting a private industry driving school. This Division also serves as a liaison to local traffic courts and assists the Department's hearing officers by maintaining a list of court approved driver safety programs and instructors.

As an outgrowth of their skills and contacts, the safety education officers assume the role of local public information officers for the Department.

## Performance Standards

1. Increase public awareness of safe driving principles.
2. Provide safety education training and assistance to law enforcement officers.

## Performance Measures

1. Number of public and media events held to promote safe highways.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,440	1,500	1,550

FY 2002-2003 actual data is YTD as of May 2003.

2. Number of law enforcement officers receiving safety education training and assistance.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
178	200	200

FY02-03 actual data is YTD as of May 2003

### **Obstacles to Meeting Objectives and Delivering Services**

During recent lean budgetary times, the time available for Highway Patrol officers to devote to helping promote highway safety as educators was limited. Gearing back up to give this effort more time and resources is a welcome challenge, but it does mean that Driver Education faces a backlog of interest. In addition, the equipment for the program does not match the message: when using filmstrips with today's audiences, for example, the underlying message is that the subject is not particularly important.

### **Means of Overcoming Obstacles**

To meet the demand for highway safety education, Driver Education makes every effort to prioritize the time spent at public and media events so that areas where the biggest difference can be made are the areas served. Equipment is beginning to be upgraded by using equipment that is being replaced by others within the Department. The Department's video production capabilities are being explored to update presentation material.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The only revenue in this special revenue allotment code is the Department's share of litigation tax from citations issued on the state's highways, which is a direct correlation of the number of citations issued. Though the fund has been depleted and has very little in reserve, over the years, there has been sufficient growth in the revenue to fund basic highway safety educational efforts. The Department's share of the litigation provides 100% of the state appropriation required to operate this program. There is a new effort to locate federal funds that may be available to help fund specific safety messages. Grants from the Governor's Highway Safety Office can also supplement wider departmental highway safety education efforts.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Building strong partnerships with others who have a similar stake in saving lives and avoiding injuries caused by traffic crashes is the primary means Driver Education has to stretch its dollars. Funds used for this effort are closely monitored, with every effort made to coordinate services within the Department as well as with external partners.

### **Future Challenges and Opportunities**

Almost every legislative session results in new laws related to highway safety, such as the recently signed child restraint law. Getting the message out to the public in an effective, timely

manner is an annual challenge. In addition, Driver Education must address national trends, such as the increased sales of SUV's along with the increased crashes and fatalities related to SUV's.

### **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter.

### **Data Verification**

The Staff Inspection Unit verifies the records of public and media events, in the course of maintaining Commission for Accreditation of Law Enforcement Agency (CALEA) certification. Additionally, the surprise audits help ensure that the activity statistics are reported accurately.

### **349.09 Tennessee Law Enforcement Training Academy**

The purpose of the Tennessee Law Enforcement Training Academy (TLETA) is to provide basic and specialized training in all areas of law enforcement for all state and local enforcement recruits and graduates. TLETA also provides training and consultative services to local, state, and national law enforcement associations.

### **Statutory and Constitutional Objectives**

TCA 38-8-201 requires TLETA to train police and law enforcement officers in state, municipal, county and metropolitan jurisdictions in the methods of maintaining law enforcement services. TCA 38-8-206 requires TLETA to provide consulting services to local law enforcement agencies, and TCA 38-8-103 requires TLETA to serve as staff for the Peace Officers Standards and Training (P.O.S.T.) Commission.

### **Mandated and Optional Services and Means of Providing Them**

TCA mandates TLETA to provide training for all police and law enforcement officers in the methods of maintaining law enforcement services (TCA 38-8-201). The Training Academy generally serves about half of new police recruits in the state. The major metropolitan areas are able to provide training for most of their own recruits, though occasionally they also utilize TLETA. In addition, there are two smaller training academies in eastern Tennessee, which also provide some basic training. In a typical year, there will be 1,000 new officers, 560 of whom receive their training at TLETA.

The specialized classes offered by TLETA help meet the 40-hour annual in-service training requirements (TCA 38-8-107) for approximately 17,000 active police and law enforcement officers. Specialized training courses include both mandated subjects and subjects requested by local agencies, and include such areas as Police Response to Active Shooters, Critical Incident Debriefing, Community Oriented Policing, Anti-Gang training courses, and other nationally recognized training programs. The training services are provided through a mix of courses

offered at the Academy in Nashville, and courses offered off-site in other parts of the state. Most courses are taught directly by academy staff to law enforcement personnel. Additional courses are offered as train-the-trainer classes, to extend the instructional capacity of local agencies. All classes utilize a combination of lecture, readings, simulations and hands-on learning, as appropriate for the particular subject area, and are continually updated to address emerging needs, and to incorporate advancements in technology and new enforcement practices.

TLETA also provides mandated consulting services (TCA 38-8-206) to local law enforcement agencies and associations such as the Tennessee Sheriff's Association, Association of Tennessee Chiefs of Police, and Tennessee District Attorneys. These services are delivered by facilitating workshops and making presentations at annual conferences and meetings, and by going to local agencies to consult on a wide variety of law enforcement concerns. Finally, TLETA is mandated to serve as staff for the P.O.S.T. Commission (TCA 38-8-103), a service more fully described in the P.O.S.T. program description.

A group not directly mandated to be served, but whose training needs are also provided by TLETA, is the group of School Resource Officers (SRO's). Classes for SRO's were originally funded through federal grants; the Academy considers providing a continuation of this training as an on-going obligation to local law enforcement agencies.

## Performance Standards

1. Train new law enforcement recruits hired by agencies served by TLETA within six months of receiving their application.
2. Offer a wide variety of specialized training schools.

## Performance Measures

1. Percentage of new recruits trained within six months after application received by TLETA.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	95%	95%

2. Number of specialized training schools offered.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
40	35	35

## Obstacles to Meeting Objectives and Delivering Services

Currently, demand is exceeding resources such as available classroom space, sufficient dorm rooms, adequate dining facilities, and availability of instructors. With respect to the facility, the dining hall now has to run three lunch shifts to handle 60 staff/students. In the face of a rising trend in female recruits (some 12% now are females), the dormitory lacks sufficient space for female recruits. Of the 1,000 newly certified officers per year, TLETA, at best, can train only 560 each year. Sufficient space challenges and the need to expand basic training to ten weeks have also hampered the academy's ability to provide specialized in-service training for local



police officers, who need 40 hours per year. Presently, TLETA can only accommodate about one-third of the P.O.S.T. certified officers seeking to comply with the mandated training.

As policing methods require more sophisticated technology, TLETA is limited by its own lack of technological resources to meet these growing demands. Increasingly, computers are being used to commit crimes, particularly many white collar crimes. Computer resources have the potential to greatly assist law enforcement agencies in investigating and solving crimes. Without its own computer resources, TLETA faces a training gap that is difficult to meet.

### **Means of Overcoming Obstacles**

A Capital project is underway to address capacity related obstacles. An expanded facility is slated to open in the fall of 2003. However, the new facility does not address the problem of lack of adequate dining facilities. Currently, the academy must increase the number of lunch or meal periods, or for the specialized classes, have the officers eat off campus. The expanded facility will allow housing for 10% of a class to be women, close to the current demand. Given the physical capacity limit, the academy has implemented a reservation system for local law enforcement agencies in an effort to ensure that new recruits can start their training within six months of their hire-date. Finally, TLETA also addresses the capacity obstacle by offering satellite classes in local areas whenever this is feasible with the available staff.

To overcome the technology gap in training, TLETA presently relies on the lecture method, to at least cover the topics in a limited fashion, and is beginning to establish a computer lab.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department doubled fees for local participants from \$100 to \$200 per week July 1, 2000. There is a fine line in raising fees and discouraging the participation of local law enforcement officers in training activities at the Academy; furthermore, it could be argued that raising fees would amount to cost shifting for taxpayers, not a maximization of revenue. The opening of the new wing at the Law Enforcement Training Academy will generate additional fees. This will enable the Department to train additional officers, particularly female officers, who have been limited in the past due to lack of dedicated female facilities. Presently, TLETA has no federal grants. TLETA has received several grants in the past in the areas of Community Oriented Policing, Gang Resistance, and Domestic Violence. However, these grants have expired, and the Department has been forced to absorb these activities to the best of its abilities with state funds. It should be noted that the Department's ability to sustain these activities after grants expire gives TLETA greater credence when applying for other funds. Presently, tuition from students and other miscellaneous fees account for approximately 25% of the funding of this program.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Securing grants without matching state funding is one way the academy attempts to minimize costs related to grants. Performing course audits, self-assessments, and monitoring class demands is another way TLETA avoids unnecessary expenditures. Annually, TLETA calculates costs of providing classes and set fees accordingly. In an effort to maintain demand for services, the academy staff continuously upgrades the content and methods of training provided based on enrollment figures as well as course evaluations.

## **Future Challenges and Opportunities**

The new P.O.S.T. rule requiring local agencies to provide training for their new recruits within six months of their application date presents a future challenge. Being prepared for each year's next hot topic for the specialized courses is an on-going challenge. Homeland security, for example, was a new topic incorporated into both training and consulting services within a very short time frame. Finally, the growing female population in law enforcement also presents a challenge for the academy's accommodations.

## **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter.

## **Data Verification**

The data is verified through independent cross-checks between TLETA and local law enforcement agencies.

## **349.10 P.O.S.T. Commission**

The Tennessee Peace Officers Standards and Training (P.O.S.T.) Commission is responsible for developing and enforcing standards and training for all local police officers. Using a salary supplement as an incentive, the commission also promotes continuing law enforcement training for the full time peace officers in Tennessee. The commission is composed of eighteen members and includes local law enforcement personnel, legislators, and Tennessee citizens who are not connected with law enforcement.

## **Statutory and Constitutional Objectives**

TCA 38-8-104 *et seq.* outlines the duties and authority of the P.O.S.T. Commission, including the establishment of uniform standards for the employment and training of all local law enforcement officers in Tennessee, the certification of law enforcement specialists, and the administration of income supplements for law enforcement officers. TCA 38-8-103 requires that staff for the commission be provided through the TLETA, with the director of TLETA serving as the secretary for the commission.

## **Mandated and Optional Services and Means of Providing Them**

Serving as the primary regulatory body for Tennessee law enforcement, the P.O.S.T. Commission develops and enforces standards for law enforcement agencies statewide (TCA 38-8-104 *et seq.*), including physical, educational, and proficiency skills requirements for both employment and training. In addition to setting standards, the commission certifies law enforcement training

instructors, curricula, and specialized schools. Training programs that may seek P.O.S.T. certification include the basic police training required of all new recruits and continuing education training programs officers complete to fulfill the P.O.S.T. required 40 hours of in-service training each year.

Annually, the commission provides a salary supplement to certified full time officers completing the required 40 hours of in-service.

The certification and decertification of staff and agencies is another aspect of the commission's service (TCA 38-8-107). Currently, there are over 550 agencies and 17,000 peace officers (approximately 11,500 of whom are full-time officers) in the State of Tennessee. Compliance audits are performed to ensure that local law enforcement agencies and officers are adhering to the standards set forth by P.O.S.T. Agencies or officers that are not in P.O.S.T. compliance are subject to decertification.

The P.O.S.T. Commission serves as a permanent repository for all records pertaining to the certification of law enforcement officers and agencies, and as a clearinghouse for training programs relating to local law enforcement.

### **Performance Standards**

1. Pay the salary supplement to full-time officers who have met P.O.S.T. standards for their continuing education.

### **Performance Measures**

1. Number of officers receiving salary supplement.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
11,522	11,775	11,975

### **Obstacles to Meeting Objectives and Delivering Services**

Two main obstacles confront the P.O.S.T. Commission services. First, the records associated with certification of training and employment are paper records, records that are processed, archived and retrieved through a manual process. Very little of the commission's work is computerized, making for a very labor-intensive effort. Second, compliance auditing is largely limited to audits of agencies where complaints or concerns have been noted.

### **Means of Overcoming Obstacles**

TLETA and P.O.S.T. Commission staffs are in the process of building specifications for an imaging system to convert their paper documents to indexed, retrievable electronic documents. As a first step, commission-meeting documents related to requests for certifications and waivers are scanned, rather than being photocopied. Sensitive documents are displayed using a document camera.

As time permits, when TLETA staff travel to various parts of the state to conduct training or consult with local agencies, every attempt is made during this travel time to also do some unannounced basic compliance auditing. Commission members themselves also assist with this. Because the state auditors look in depth at local departments, the focus for the P.O.S.T. Commission does largely remain with responding to tips and complaints.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Direct source of funding for police pay supplements is from funds earmarked from the issuance of driver licenses and vehicle renewals. This allotment code does not receive revenue. State appropriation accounts for 100% of the funding for this program. There are no known sources of federal revenues to fund the operations associated with the regulation of police officers or the payment of the police pay supplement for full-time local police officers.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The expenditure of funds for police pay supplements is subject to proper internal controls. By combining trip purposes as much as possible (i.e., doing compliance audits while already traveling for TLETA functions), the P.O.S.T. operational costs are kept to a minimum. In addition, P.O.S.T. commission meetings are held at state parks, whenever this is feasible.

### **Future Challenges and Opportunities**

There are no upcoming federal mandates or lawsuits at this time, and the increase in officers meeting the requirements for the salary supplements is expected to rise at a normal level.

### **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the close of each quarter.

### **Data Verification**

Procedures to verify the data are basic internal auditing procedures.

## **Titling and Registration**

### **349.11 Titling and Registration**

Titling and Registration (T&R) is established to protect the property interests of vehicle owners and is responsible for issuing, recording, and enforcing ownership titles; regulating the sale and distribution of vehicle license plates; and regulating these activities through the 95 county clerks.

## **Statutory and Constitutional Objectives**

The statutory and constitutional objectives set forth for the Titling and Registration program in TCA Title 55, Chapters 1 – 6, 15, 21 and 25 require a certificate of title and the registration of all vehicles to: authenticate ownership of vehicle; protect lien holders by recording all liens on vehicles and providing a central repository of vehicle and owner information; protect consumers by indicating condition of vehicle with odometer information, rebuilt and flood brands; and deter auto theft by protecting an innocent purchaser from buying a stolen vehicle. In addition, the T&R program collects the taxes paid for the privilege of operating the vehicle on the roads in this state. Registration is evidence of valid ownership, compliance with air pollution laws in some counties, and vehicle safety. These activities provide significant data to law enforcement in all jurisdictions for tracking owners or drivers of vehicles. In addition, the T&R program issues disabled person placards to individuals which give parking privileges to disabled drivers and passengers.

Federal laws governing the T&R program include the Truth in Mileage Act of 1986 requiring owners to disclose the odometer reading on the certificate of title or upon a secure paper process each time ownership changes; and the Motor Vehicle Anti-Theft, Title Reform and Consumer Protection Act of 1996 which establishes salvage definitions for buyers to know condition of the vehicle they are purchasing.

## **Mandated and Optional Services and Means of Providing Them**

Two of the highest volume services mandated for the T&R program are the issuance of titles and the registration of all new and used vehicles within the state (TCA Title 55, Chapters 2-3). Vehicles include passenger vehicles, commercial motor vehicles and mobile homes. These services involve other related activities, such as the noting and discharge of liens on the property. Through county clerks, who serve as agents working with the Department, the T&R program registers vehicles in all 95 counties. In an effort to expedite the issuance of titles, the Department also encourages clerks to issue titles locally as well. The state office serves primarily to regulate and provide guidance and support to the clerks in these tasks, as well as to resolve problems beyond the resources of the county clerks.

The state office also serves as the central repository of all vehicular records for the state, and performs tasks most efficiently done at the central office, such as the surrender of titles to other jurisdictions, the evaluation of title applications for salvage and abandoned vehicles, maintaining all of the variety of classes of license plates issued, and serving as a broker for the specialty plate funds. T&R also issues disabled plates and placards, drive-out tags and temporary operating permit tags. Not mandated, but as a courtesy, T&R mails renewal notices to vehicle owners six to eight weeks prior to the registration expiration.

Titling and Registration supports law enforcement efforts not only through the anti-theft provisions, but also through locating suspected criminals. An equally important function of these mandates is ensuring that all revenues owed by vehicle owners are properly collected.

## Performance Standards

1. Increase the number of titles being issued by the County Clerks.
2. Improve access to T&R telephone information.
3. Reduce registration renewal errors.

## Performance Measures

1. Percent of titles issued locally by County Clerks.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
65%	67%	67%

2. Percentage of abandoned calls to T&R telephone operators.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
34%	34%	32%

3. Percentage of renewal registration errors.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3.5%	3.0%	3.0%

## Obstacles to Meeting Objectives and Delivering Services

The primary obstacle confronting Titling and Registration this next year lies with the challenge of maintaining business as usual within the limitations of a decades-old computer system, while resources are consumed building the new TRUST (Title and Registration User System of Tennessee) system. Only the most serious deficiencies in the current system warrant any diversion of resources. Thus, the growing complexities involved with such services as Vehicle Identification Number crosschecks, and the maintenance and development of more complicated specialty plates can only be handled without computer upgrades.

Also, during this waiting period, the number of documents processed as paper, with no means of easy retrieval, continues as a major roadblock to efficiency. The more errors and delays there are in processing, the higher the number of phone calls and inquiries regarding the work. The cumbersome, largely manual procedures used in the current system are made even more difficult with the loss of some 15% of the positions in the Nashville office. The microfilm equipment is outdated and breaks down continuously.

Other things that obstruct the program's goals are the lack of properly trained personnel, agents, and stakeholders. In order to move in the correct direction, the Division needs to not only train its staff but to train the personnel at the county clerks' offices. The lack of a proper revenue reconciliation and inventory control process creates internal control weaknesses.

## Means of Overcoming Obstacles

The TRUST system is projected to begin implementation next fiscal year. The re-designed

system will result in a much more streamlined, effective business process, enabling clerks to handle more transactions and reducing the number of incoming phone inquiries. The antiquated microfilm equipment will also be replaced with scanners when the TRUST system is implemented. TRUST will also begin to fill the gaps with proper revenue reconciliation and inventory controls.

In the meantime, the T&R Division has organized the county teams to reflect county technology and thus offer more targeted support. The division will continue to provide positive feedback, evaluate clerk title and registration errors, and encourage counties issuing titles to perform all of the transactions indicated in their contract. The Division is trying to compensate for lost positions by working with the Department of Corrections and the Department of Mental Health, Mental Retardation to arrange for their inmates/clients to perform various limited tasks.

To remedy the lack of training for T&R program's stakeholders, the program is participating with the American Association of Motor Vehicles Administrators national effort to establish certification for title examiners, dealers, and lien holders, which includes identifying common training needs. The T&R training officer is working alongside the TRUST team to gear up for this massive systems change. Recently the program conducted fraud training for county clerks and Nashville staff, and T&R created and delivered a two-hour customer service refresher for the Information phone section.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Titling and Registration receives approximately 32% of its funding from current service fees, primarily reinstatement fees from driver licenses. Presently, there are no known sources of federal revenue for the registration and titling process. It should be noted, however, that this Division generates approximately \$250 million annually in registration and titling fees, which is transmitted to the highway fund and general fund. Fees for the registration and titling process are established by statute, and thus any increase in fees would require legislation.

One source of revenue with potential for growth for the general fund is the proper valuing of all motor vehicles for sales tax purposes. Under the current system, there is no built-in method to confirm that the purchase price an owner reports is within a reasonable range of the vehicle's actual market value. T&R expects significant gains in this area once TRUST is fully implemented.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The T&R program utilizes all means possible to reduce costs and safeguard state funds. The director reviews all expenditures and purchases. In addition, continuing the alternative means of providing services to the citizens by utilizing county clerks to issue titles is not only cost effective for the Department, but a timesaving convenience for the citizens. Finally, the program is studying the feasibility of outsourcing the task of providing renewal notices for vehicle owners.

### **Future Challenges and Opportunities**

Because of Tennessee's relatively low titling and registration fees, and its lack of a personal property tax or requirement of proof of insurance, Tennessee has an unusually high rate of

vehicles bought elsewhere but titled and registered here. More titles are issued for out-of-state owners than for Tennesseans, a fact that cannot be entirely explained by the state being surrounded by eight other states. While this situation may bring in revenue, it also represents an artificial workload for the T&R program and adds pressure to already stretched resources.

## **Performance Data Schedule**

Performance data will be published and available to the public 30 days after the end of each quarter.

## **Data Verification**

The data is verified through crosschecks of the various reports named above.

## **Technical Services**

### **349.12 Technical Services**

The Technical Services program encompasses four major services revolving around vehicle and driver data, not only managing the data but in some cases taking action based on the data. The program thus has two major aspects: back room functions involved with records and information systems, and public functions, working directly with problem drivers.

## **Statutory and Constitutional Objectives**

The Technical Services Program is responsible for supporting the general record and data needs arising from legislative mandates, as well as the specific public safety need to protect the public from financially irresponsible and hazardous drivers (TCA Title 55, Chapters 10 and 12, 55-50-501, 55-50-502, 55-50-505). While supporting these and all information-related mandates of the Department, the Information Systems service within the Technical Services program is governed by standards established by the Office of Information Systems within Finance and Administration.

## **Mandated and Optional Services and Means of Providing Them**

The Technical Services Program is divided into four service areas: Information Systems, Financial Responsibility, Driver Improvement, and Crash Analysis.

Responsibilities of Information Systems include Department wide support of computer-related resources, including the installation and maintenance of computer hardware, design and development of new computer systems, management of departmental databases for driver and vehicle records and transactions, and for researching, acquiring, and implementing new



technologies. Not directly mandated, the services of this Division are vital for the proper administration of the Department in its duties.

The Financial Responsibility service is required to cancel, revoke or suspend driver licenses for a variety of traffic and other offenses, including crashes (TCA 55-12-105), moving traffic violations (TCA 55-50-502), DUI violations (TCA 55-50-501), habitual offenses (TCA Title 55, Chapter 10) truancy (TCA 55-50-502), drug free youth act/age 18-21 alcohol violations (TCA 55-10-702), child support violations (TCA 36-5-701, 36-5-706), juvenile possession of weapons (TCA 55-10-701), driving away from fuel pumps (TCA 39-14-151), uninsured motorists violations (TCA 55-12-115), and failure to appear in court (TCA 55-50-502, 55-50-704).

Once the driver is eligible to regain driving privileges, Financial Responsibility also verifies eligibility, collects the appropriate fees and updates the record to show the driver's new status. Along with reinstating licenses, this service issues restricted licenses to those found eligible.

Financial Responsibility is required to maintain certified driving records (TCA 55-50-204), the sources for which are largely from external law enforcement agencies and courts. Those records, which include traffic convictions and citations, that are not yet transmitted electronically must be coded, filmed and keyed. The Department's own citations and convictions are processed by this service as well.

The driving records not only form the history of a driver and have implications for the driver's eligibility to drive, but they must also be available to the driver or other legitimate parties. Providing a Motor Vehicle Record (MVR), copies of crash reports, and other miscellaneous documents related to driving records, are mandated activities of Financial Responsibility, as is appearing in court to testify as to the accuracy of a such records.

The administration of the Financial Responsibility service is based in Nashville, where teams of safety examiners handle public inquiries and reinstatements by means of correspondence, telephone, fax and email, as well as in-person. Financial Responsibility operates with one full time office in Memphis to carry out these duties, and nine driver license stations have selected examiners trained to do them as well. Financial Responsibility also maintains a 24-hour help desk to provide information regarding organ donors (TCA 4-3-2011), and to provide information/photos for law enforcement investigations.

Driver Improvement is required to evaluate the driving records of Tennessee drivers, based on accidents and/or convictions of traffic violations, in order to identify and keep track of high-risk drivers, as well as to establish procedures for their rehabilitation (TCA 55-50-505). Individuals who are found to be frequent traffic violators are sent a notice of proposed suspension and given an opportunity to attend a hearing. Hearing officers are located throughout the state in seven offices, and in addition to holding the hearings in person, offer phone hearings for out-of-state drivers. In most cases, when a driver attends a hearing, he or she is given the opportunity to attend a defensive driving class in order to either eliminate or reduce the suspension.

Driver Improvement is also required to handle medical referrals regarding the capability of drivers (physical, mental and substance abuse concerns). After seeing that a proper evaluation of the driver has been undertaken either by a medical professional or by a licensing re-examination, the section may suspend the driver's license, add restrictions, or remove the proposed suspension.

The Crash Analysis service is required to receive, tabulate, analyze and maintain official copies of all reportable traffic crashes (i.e., those involving bodily injury, death, or property damage over

\$400), as well as to supply appropriate forms for law enforcement to use in reporting accidents to the Department (TCA 55-10-107 through 55-10-111, TCA 55-10-115). Currently, the crash records are compiled and maintained via use of a report that is scanned to capture the image and a large amount of data. Data that cannot be scanned is then keyed. This report was developed by the Department and is in use by over 90% of local law enforcement agencies, including the Department's own officers. The new report captures a wealth of detail missing from the previous hand-written reports.

## Performance Standards

1. Send mandatory license revocation letters to drivers convicted of DUI, manslaughter and other equally serious violations within 21 days after Department receives the court conviction record.
2. Hold hearings for drivers whose licenses have accumulated suspension points within 60 days of the mailing the proposed suspension letter.

## Performance Measures

1. Average elapsed time in calendar days between the Department's receiving mandatory convictions from the court and mailing the letter revoking the driver license.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
14	12	12

2. Percent of hearings held within 60 calendar days of points suspension letter.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
87%	90%	92%

## Obstacles to Meeting Objectives and Delivering Services

Charged with maintaining accurate and timely records, the Technical Services program must contend with the fact that, aside from the records generated by TDOS, its sources of information are external to the Department and thus, largely out of its control. While the Department and certain external law enforcement agencies and courts are all moving away from paper documents that require manual processing, in the current environment some five million records arrive in this program as paper.

Dependency upon a largely manual system of receiving and storing records and upon an outdated data management systems means that both accuracy and timeliness may suffer. For example, when there is a delay in posting crash information or traffic convictions, this means that action regarding driving privileges cannot be taken as rapidly as the public might well expect it to be. Backlogs in capturing data can not only mean inconvenient service to the public, but also can have potential threats to highway safety. With a time lag in producing data, it is more difficult to target enforcement and education efforts. The delay also permits those who should have been identified as problem drivers, to still be on the road. Because current processes do still rely upon

keying data, the loss of four data entry operator positions presents an obstacle to keeping up with the work.

Further hampering the Department's efficiency is the fact that each desktop technician supports 555 pieces of computer related equipment in 33 different locations. Industry averages indicate that technicians more normally support 75 to 130 pieces of equipment, clearly a more reasonable workload.

In addition to managing the back room processes related to managing data, two of the program's services deal directly with the public. A limited number of safety examiners and hearing officers, along with a growing number of drivers, create a demand for services that can be difficult to meet. Financial Responsibility faces long queues of people calling the Department for information or lined up to reinstate their license, while Driver Improvement faces a backlog of hearings.

### **Means of Overcoming Obstacles**

To address the inefficiencies of manual processing of paper documents, the Department has taken a number of actions on different fronts. First, Technical Services, under the direction of Research, Planning and Development, created a scannable crash report for the Crash Analysis service. The patrol has used this report successfully and has provided it to all local law enforcement agencies. The next phase is to make the report also available as an electronic report, further streamlining the crash report process. The same approach is planned for citations, so that it too can be an electronic document. In the meantime, the Department works with courts to receive conviction data in virtually any electronic format that is mutually acceptable. Around half of commercial motor vehicle crashes are in metropolitan areas, so if the Department can receive this critical data electronically, the federal guidelines will be met more easily.

To address outdated database systems, again several approaches are underway. For the nearly 30 year old driver database, Information Systems has begun building the foundation for a database redesign. Smaller database systems, such as the one supporting the Legal Office, are being re-engineered to meet current business needs.

Information Systems has a renewed emphasis on planning for necessary on-going support, to insure that proper operational costs are included in future projects undertaken by the Department. In addition, this service is encouraging the use of commercial, off-the-shelf products where feasible, is establishing a server plan in which critical application servers are transferred to OIR in a mutually agreed upon manner, and is extending training in project management to all key Information Systems staff.

Financial Responsibility is tackling both its backroom processes and the general growing demand for services by the public. The backroom processes are being studied in terms of business flow, to identify redundancies and ways to utilize staff more efficiently. The demand for services is being addressed by adding the Internet as another avenue for reinstatements and reinstatement information. The web based service will augment a fairly recent development with the 24 hour automated phone system, where people can find out about their reinstatement requirements without talking to an examiner, by either having the information read to them by the computer, or faxed on demand. This information, referred to as the plain English letter, has been issued over 85,000 times during the past year. FR is also making a concerted effort to encourage courts and major insurance companies to send their information to them electronically.

The Driver Improvement service is addressing its backlog by sending a subsection of drivers with problem points straight to the defensive driving schools, which results in holding hearings for fewer drivers. This, combined with exploring ways to streamline the paperwork involved should enable the service to hold hearings in a more timely manner.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Because of the critical nature of traffic data, federal funds often depend upon how well the state manages this resource and meets federal guidelines. Tennessee has forgone grant funds in the past for its commercial vehicle enforcement service when the time involved in posting data to state and federal databases exceeded federal standards. This has been recently remedied, but it is vital to continue meeting these expectations.

In some cases, federal funds are available to help meet these standards, and the Department aggressively pursues these opportunities, most notably through the Governor's Highway Safety Office (GHSO) and through the Federal Motor Carrier Safety Administration (FMCSA). TDOS is searching for federal grants in the area of accident records, and have secured minor funding of \$28,000 from the University of Memphis to reduce the backlog of crash records processing. TDOS will continue the search for federal grants, particularly in the areas of accident records and driver improvement.

Current services fees, primarily from reinstatement fees of driver licenses, provide approximately 81% of the funding for this program. Revenues from reinstatement fees fluctuate. The Department has no direct control on drivers who wish to reinstate their driver licenses and drive legitimately, or drivers who simply ignore the law and drive without the proper license. However, TDOS is in the process of instituting on-line reinstatement of driver licenses, which should encourage applicants to reinstate their license with the appropriate fees rather than delay the process because of waiting in long lines.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Converting from the paper processes to more streamlined methods is Technical Service's major method of avoiding unnecessary costs and expenditures. As an interim step, a consolidated crash report was developed to serve multiple functions and replace a multitude of forms. To stretch technology dollars, TDOS seeks to partner with other governmental agencies with shared mission and resources. In addition, offering a variety of means for customers to conduct their business with the Department without having to come to one of the offices not only provides better customer service, it also reduces the costs of providing these services. To keep abreast of new technologies, Technical Services arranges for vendors to provide in-house educational seminars for staff at no cost to the state.

### **Future Challenges and Opportunities**

The federal government is discussing stricter penalties for commercial motor vehicle operators, such as disqualifying them on the spot for certain offenses. This will impact the business processes of Technical Services.

The addition of several hundred pieces of equipment for the Titling and Registration TRUST project will have a serious impact on the Information Systems support for the Department.

### **Performance Data Schedule**

Performance data will be published and available quarterly to the public 30 days after the end of each quarter.

### **Data Verification**

The turnaround time for mandatory revocation letters will be verified through spot-checks of individual driver records. The elapsed time between letters sent to drivers due to points and hearings held will be verified through records maintained by hearing officers.

# Resources and Regulation

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# **Department of Environment and Conservation**

## **General Agency Information**

The Department of Environment and Conservation was established in 1991. The Department's mission is to protect the health and safety of Tennessee citizens from environmental hazards, manage the Tennessee State Parks system, and to protect and improve the quality of Tennessee's air, land, and water. It is comprised of the environmental programs formerly housed in the Department of Health and Environment along with most of the programs previously located in the Department of Conservation. The Department has responsibilities in two critical areas for the State of Tennessee: 1) environmental protection plus 2) parks and conservation.

The Department is the chief environmental regulatory agency in Tennessee. It has delegated responsibility from the U.S. Environmental Protection Agency (EPA) to regulate sources of air pollution, water pollution, solid and hazardous waste, radiological health issues, underground storage tanks, water supply, groundwater, oil and gas exploration and drilling, inactive hazardous substance sites and other environmental issues.

Eight environmental assistance centers across the state carry out regional regulatory duties and provide assistance and information to the public and the regulated community. This assistance includes a program of grants and loans to assist local communities with the development and maintenance of drinking water and wastewater infrastructure as well as solid waste disposal, waste prevention and recycling programs.

The Department is working to best align its staff and services to meet its legal and ethical responsibilities to the people of Tennessee in the most efficient and fiscally responsible manner possible. Major Department initiatives promote education of citizens and the regulated community regarding environmental concerns plus strong and effective enforcement of state and federal environmental laws.

The Department manages 53 state parks encompassing over 140,000 acres across Tennessee, ranging from full-resort parks with inns, restaurants, golf courses and marinas to rustic natural and historical sites. Tennessee state parks draw over 26 million visitors a year and provide a full range of recreational opportunities. The Department also provides support and assistance to local governments for local parks and recreation programs.

Unique areas with rare or unusual flora, fauna or other ecological features are set aside for protection as state natural areas. In 2003, Tennessee has 68 natural areas totaling 100,000 acres. In addition, the Department is responsible for conserving and promoting the cultural heritage of Tennessee, through the Tennessee Historic Commission, the Division of Archaeology and programs at state parks.

The Department contains the following programs:

1. Administrative Services
2. Tennessee Elk River Resource Management
3. Conservation Administration
4. Historical Commission
5. Land and Water Conservation Fund



6. Archaeology
7. Geology
8. Maintenance of Historic Sites
9. Local Parks Acquisition Fund
10. State Lands Acquisition Fund
11. West Tennessee River Basin Authority
12. West Tennessee River Basin Authority – Maintenance
13. Environment Administration
14. Natural Heritage
15. Used Oil Collection Program
16. Tennessee Dry Cleaners Environmental Response Fund
17. Air Pollution Control
18. Radiological Health
19. Community Assistance
20. Water Pollution Control
21. Solid Waste Management
22. DOE Oversight
23. Abandoned Lands
24. Hazardous Waste Remedial Action Fund
25. Water Supply
26. Ground Water Protection
27. Underground Storage Tanks
28. Solid Waste Assistance Fund
29. Environmental Protection Fund
30. Tennessee State Parks
31. Tennessee State Parks Maintenance

## **Administration**

### **327.01 Administrative Services**

Administrative Services provides overall policy direction and management. Services include Legal Counsel, Human Resources, Information Systems, Finance and Budget, Strategic Planning, Internal Audit, Space Management and the Office of the Commissioner.

### **Statutory and Constitutional Objectives**

Tennessee Code Annotated (TCA) 4-3-502 mandates that the Department of Environment and Conservation “be under the charge and general supervision of the Commissioner of Environment and Conservation.” TCA 4-3-503 authorizes the Commissioner to establish division, bureaus or other organizational units necessary to carry out the duties of the Department.

TCA Title 8 governs public officers and employees and contains broad requirements concerning appointments, compensation, employee benefits and civil service.

TCA Title 9 governs public finances and contains broad requirements concerning the accounting of revenues and expenditures, budgets and appropriations, depositing of funds and the disbursement of funds.

TCA Title 10, Chapter 7 governs public records and contains broad requirements concerning preserving, indexing, storing and disposing of such records.

TCA Title 12 governs public property, printing and procurement contracts and contains broad requirements concerning the acquisition, administration and disposition of state property; public purchases and public printing.

TCA 4-3-304 authorizes the Comptroller of the Treasury to establish minimum standards for internal audit staff of state departments.

### **Mandated and Optional Services and Means of Providing Them**

Human Resources service is mandated to manage and oversee departmental personnel transactions, classification and compensation issues, training, recruitment and placement, insurance, and employee relations. Human resource support is provided to all divisions, program areas, offices, and state parks in the Department. In addition, this service responds to various inquiries from the public as well as governmental and legislative officials. The Division of Human Resources serves as the liaison with the Department of Personnel in matters concerning policies and procedures pertaining to personnel functions and activities.

Information systems services include the application development and customer support teams. The application development team works in conjunction with the Department's environmental and state parks program staff to define business requirements for their automation needs. By utilizing a standard software development lifecycle methodology, this team analyzes and defines the processes required to accomplish the objectives of the business function, develops the application or makes recommendations for acquiring an existing application, tests, implements and documents the application, and provides training for the users in the operation of the implemented system. Current activities involve work with environmental divisions in the development of program area web applications with connectivity to the common schema. All approved projects are included in the Three-Year Information Systems Plan. This group also provides continuing support of existing legacy applications used throughout the agency and maintains, supports, and enhances the Oracle database environment.

The customer support team is the central point for primary technical support to the end-users of the Department. This team handles typical problem calls, desktop related problems, all computer and telephone moves, adds, and changes; and the management of software licensing to ensure compliance. They also provide desktop support for all remote locations including state parks and Environmental Assistance Centers (EACs), along with the management and escalation of the Office for Information Resources related issues.

Fiscal Services provides a full range of financial management and support services for the Department. This service includes the mandated responsibilities concerning public finances and budgeting as well as payroll transactions, procuring goods and services, managing the Department's property, managing and coordinating the Department's fleet of motor vehicles, accounts payable, cash management, records and forms management, accounting and reporting for general fund revenues and expenditures, special revenue funds, federal grants and retail

operations for state parks. Fiscal services also administers and coordinates the state payment card program. This service also includes the environmental fee assessment and collection service for environmental fees established by each environmental regulatory program. The total scope of this activity involves over 70,000 external customers (permittees, licensees and registrants), over 64 different types of fees and the daily interface with nine internal departmental operating divisions. The environmental fees are assessed in accordance with the rules and regulations of the environmental programs. Fiscal Services prepares the annual Department budget request and forecasts and monitors expenditures and revenues against the approved budget. Budgets will be prepared and submitted in accordance with the state's performance-based budgeting initiative.

With the enactment of the Tennessee Government Accountability Act of 2002, the strategic planning service is required to administer the performance-based budgeting initiative. For FY 2004-2005 and each fiscal year thereafter, this service will coordinate the development of an annual operational plan (referenced in the act as a "strategic plan") and a performance-based budget for the Department.

An internal audit service is responsible for providing information and support to the Department through internal reviews, investigations and audits. This service works in conjunction with the Comptroller of the Treasury on all investigations of fraud, abuse or waste. Additionally, the service notifies federal audit agencies of audit activities as necessary. To insure its organizational independence, the internal audit reports directly to the Commissioner.

At the end of each fiscal year, internal audit informs the Comptroller of the Treasury of its planned audit projects. For the fiscal year ending June 30, 2004 there are 16 planned audits. To ensure the Department's resources are used efficiently and effectively, internal audit will be implementing operational reviews during the next fiscal year. Internal audit anticipates that these reviews will complement other audits by strengthening the Department's internal controls.

The Department's general counsel provides legal services for the Department. The major functions include: litigation in handling both the offensive and defensive cases of the Department; legislative review; review of all regulations being promulgated; and providing advice concerning regulatory interpretations, the permitting process and any unusual situations that arise in the permitting process.

The space management service of the Department facilitates, manages, and coordinates all issues relating to space and facility management, oversees the risk management program, and maintains business resumption and emergency preparedness plans for the Department. This service interacts with the Department of General Services regarding office space and related routine maintenance, housekeeping, security and other matters related to property management in state-owned facilities. It also works in coordination with the Department of Finance and Administration regarding those program operations that are located in leased (non state-owned) space.

## **Performance Standards**

1. Conduct an evaluation of the records management system and retention policy for each program area. This will allow potential reductions in space to be identified, which could result in cost savings.
2. Train and assist state parks to maximize the cost savings resulting from the purchasing flexibility established by Public Chapter 407 of the Public Acts of 2001.

3. Implement state payment card program as a cost-effective means of paying for state purchases.

### **Performance Measures**

1. Percent of on-site records reduced by following records management policies and procedures.  
[Records on hand as of July 1, 2002 were 35,994 cubic feet.]

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3%	10%	15%

2. Cost savings resulting from state parks purchasing flexibility.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$18,000	\$50,000	\$100,000

3. Cost savings resulting from implementation of state payment cards for purchases.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$7,000	\$75,000	\$200,000

### **Obstacles to Meeting Objectives and Delivering Services**

Human Resources, in conjunction with other departmental programs, have identified a broad-based department-wide goal that is to be spearheaded by the Human Resources and executive management. The commitment is to "Value and develop our people with explicit ideas and actions for both the recruitment and retention of quality staff." This goal has been adopted as an initiative because the Department is anticipating a large number of upper and mid-management staff to retire in the next five years (an estimate of 65%). Also, the Department's commitment to this goal will address the current problems of high turnover and transfer rates and a lack of trained staff. To achieve this goal of recruiting and retaining quality staff, human resources plans to initiate the development of a department-wide "technical career track." Human Resources will utilize such strategies as "mentoring" and "cross-training" within the programs to increase the technical skills of staff, and will work with the Department of Personnel and discuss, research, and review possible methods for developing viable succession planning techniques within the Department.

The recognition of data as a Department/State resource rather than as a specific program-area resource is an ongoing obstacle. The fragmentation of agency environmental data through the ongoing development of silo repositories continues to foster the exclusionary paradigm of data ownership and sharing. The inconsistent availability of funds to plan for replacement of obsolete information technology equipment to ensure all is within warranty and network-compatible continues to be a risk for application development, implementation and operability, across the Department.

The Department has been unable to obtain an automated records management system due to the front-end investment and file preparation time. Once the investment is made, and the program area is housed in a leased facility, a recommendation would be submitted to Finance and

Administration to amend the existing lease for the cost savings – a critical step to overall department effectiveness.

### **Means of Overcoming Obstacles**

Human Resources will work closely with the Department of Personnel to coordinate and simplify processes and approvals whenever possible. The Human Resources service will make better use of existing tools to enable the Department to hire the best possible applicant for specific position vacancies within the Department (for example, make more extensive use of selective certification when working registers). Human Resources will work with technical staff and with the Departments of Personnel and Finance and Administration on the development and implementation of a department-wide “technical career track” that will enhance the Department’s ability to attract and retain quality staff.

The development of an integrated (common) schema to enforce data consistency, data sharing, accurate reporting, and overall burden reduction for transmission of environmental data to the EPA will provide tools for the Department to better manage overall business processes. Statewide commitment to pursue multi-year solutions for funding information technology equipment replacement will reduce and/or eliminate the risk to application development, maintenance and operability.

Providing education and assistance to the program areas on ways to reduce administrative cost, new innovative ideas in records management will be implemented throughout the Department.

### **Means of Maximizing Federal and Other Non-State Sources of Revenues**

Although this program does not receive direct federal grants, it does receive federal funds through the Department’s approved federal indirect cost rate. All allowable administrative costs are recovered from federal grants, up to the maximum allowable limits of each grant. Administrative costs are also recovered from special dedicated revenue funds, where allowable by law, to help reduce the need for state appropriations.

Information systems will continue to optimize federal information technology grant opportunities by seeking EPA data-readiness funding to support environmental technology initiatives.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Vehicle needs assessments will be conducted on a regular basis to ensure the Department has the correct number of vehicles, the appropriate type of vehicles and that they are assigned to the correct program areas. The goal is to ensure vehicle utilization is in full compliance with the Governor’s mandate. Cost savings can be realized by reducing the number of vehicles and downsizing the type of vehicle where appropriate.

The Department is implementing the state’s payment card program as a cost-effective way for paying for purchases.

Information systems will continue to assess all departmental hardware and software and make recommendations regarding increased discount opportunities while maintaining licensure compliance. Information Systems will provide technical support as needed for Space Management's records management initiative, as it relates to document imaging. Information systems will also participate in a review of the Department's asset management processes to establish safeguards against usable computer equipment being released to state surplus when the equipment may still be acceptable for use, thereby avoiding unnecessary equipment purchases.

The Department will follow the records management policies and procedures on record retention. This will reduce the amount of space needed to house paper documents, which will generate a cost savings.

To ensure the Department's resources are used efficiently and effectively, internal audit will be implementing operational reviews each fiscal year. An operational review will evaluate the organizational unit's resources, processes, and outputs to assess any unnecessary costs and expenditures. Internal audit anticipates that these reviews will complement other audits by strengthening the Department's internal controls.

### **Future Challenges and Opportunities**

The Department will pursue ways to provide incentives to managers to operate more efficiently and effectively. These incentives would include being allowed to retain in the program a percentage of savings generated.

The state parks purchasing authority established by Public Chapter 407 of the Public Acts of 2001 could be expanded through legislation to include the purchase of services, as well as goods. This would allow more opportunities for cost savings and administrative efficiencies.

The impact of performance-based budgeting on assessing and analyzing workloads and job performance throughout the Department will be an important outcome of this process.

Information systems will work with the department leadership to define the priorities for migrating current data repositories to the integrated (common) schema. In addition, information systems will explore any opportunity for data warehousing across the Department enterprise.

The Department's lease at L&C Tower (in Nashville) expires in December 2004. The Department is currently evaluating its office requirements. This will allow the Department the opportunity of managing its space and records in a more efficient environment.

### **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

For performance standard 1, the records management effort will be guided by the state's records management system and retention policy. Space Management will maintain each program evaluation conducted and analyze the percentage of on-site records reduced. Monthly reviews will verify the on-going percentages being accomplished.

For performance standard 2, the cost savings will be determined by the state park personnel by comparing the actual cost of the goods to the cost from state-wide procurement contracts or other comparable sources, had they been required to follow the Department of General Services purchasing procedures. The cost savings calculated by the state park personnel will be collected centrally and accumulated to determine the total cost savings on a quarterly basis.

For performance standard 3, the cost information will be calculated by multiplying the number of purchases made using the payment card by the cost per transaction had the purchase gone through the state purchasing system (TOPS). The data will be collected and reported monthly based on the number of transactions on the monthly payment card statements.

## **327.17 Tennessee Elk River Resources Management (TERRM)**

The Tennessee Elk River Resources Management (TERRM) program addresses the preservation and disposition of 6,400 acres of land formerly owned by the Tennessee Valley Authority and the Tennessee Elk River Development Agency. The Tims Ford Reservoir Land Management and Disposition Plan lays out how this process shall proceed between the state and the Tennessee Valley Authority.

## **Statutory and Constitutional Objectives**

Public Chapter 816 of 1996 requires the Department to dispose of all remaining properties as expeditiously as practical and lawful (Public Chapter 816, Section 6). If the Department sells or leases any land or any property transferred, the proceeds of such sales or leases shall be distributed to the Department and to the 10 counties in the Elk River watershed (Public Chapter 816, Section 4).

## **Mandated and Optional Services and Means of Providing Them**

The program is mandated by PC 816. The Tennessee State Parks Division currently manages the program. The program oversees land sales for residential development. This is accomplished through Request for Proposals (RFP). The program coordinates this effort with the Departments of Finance and Administration (F&A), Economic and Community Development (ECD), and the Comptroller of the Treasury to assure that proper procedures are followed in land sales.

The program provides administrative and maintenance services for publicly owned properties and facilities. This assures that the properties and facilities are properly maintained and are safe and secure for public uses. This service will eventually be folded into the Tims Ford State Park budget. The program also prepares the annual budget, approves expenditures, and distributes

proceeds from the TERRM fund, derived from the sale of land, to the counties in the Elk River watershed (50%) and to Tims Ford State Park (50%). Tims Ford State Park and the Tennessee Wildlife Resources Agency (TWRA) manage the public lands that are owned by the state.

### **Performance Standards**

1. Sell the residential lands in accordance with conservation development principles resulting in the conservation and protection of the parcel's natural resources. (Total acreage to be sold is approximately 609 acres.)

### **Performance Measures**

1. Percent of acres sold for residential development that complies with the Department's conservation development requirements (as contained in the Department's Request for Proposals).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0%	29%	51%

### **Obstacles to Meeting Objectives and Delivering Services**

The main obstacle to selling the residential development lands is the economy and how that impacts the real estate markets in Franklin and Moore Counties.

### **Means of Overcoming Obstacles**

The Department has developed a request for proposals (RFP) process that details the overall requirements in order to sell and develop any of the residential development lands around Tims Ford Reservoir. The Department will gather real estate information in the future to assess the market and timing of the sale of these lands.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department will seek assistance from the Tennessee Valley Authority (TVA) to secure survey work and other related work. There are also a number of non-state revenues that are generated from the TERRM properties and facilities that are being used annually to support the operations and maintenance activities. The major sources of revenue are the Fairview Campgrounds, the agricultural leases, and the Holiday Landing Marina and Resort.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The TERRM office uses financial audit procedures to assure the proper collection and depositing of revenues from the Fairview Campgrounds, the agricultural leases, and the Holiday Landing Marina and Resort.



Any operation and maintenance costs are reviewed and approved by the Director of the Division of Fiscal Services for approval. After this approval is received, the State Parks Division notifies the park manager.

## **Future Challenges and Opportunities**

According to Public Chapter 816, 50% of the revenues from the sale of land will go to the Department for use at Tims Ford State Park. The Department will have to assess how to best utilize these funds to improve the state park to meet park users' needs as well.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The program will maintain appropriate files consistent with F&A's real property management regarding the lands sold under the RFP process. The RFP document and accompanying file for each land sale will contain specific records on the number of acres sold.

## **Conservation Services**

### **327.03 Conservation Administration**

The state has published *The Tennessee Conservationist* educational magazine since 1937. The magazine features professional photography and articles highlighting conservation and environmental activities and related Tennessee history and is published six times annually with over 10,000 subscribers.

The Recreation Educational Services Division assists public recreation providers and promotes recreation development through grants, technical assistance, and monitoring of local and state planning efforts.

## **Statutory and Constitutional Objectives**

There are no specific statutory or constitutional objectives for the magazine other than general references to education and outreach.

TCA 11-1-110(c) establishes a Division of Educational Service within the Department to provide conservation educational services.

TCA 11-9-108 created within the Department the Parks and Recreation Technical Advisory Service (PARTAS) to specifically assist county and municipal governments and other recreation providers.

TCA 11-9-102 requires the Department to develop a five-year State Recreation Plan to receive certain federal funds.

TCA 11-9-201, et. seq. created the Tennessee Recreation Initiative Program (TRIP) awarding three recreational grants annually to each grand division of the state.

TCA 55-4-265 created the Ducks Unlimited license tag producing revenue exclusively for grants issued to Ducks Unlimited.

The Land and Water Conservation Fund (LWCF) Act of 1965, as amended, provides federal grant funds for land acquisition and preservation.

The Transportation Equity Act (TEA-21) authorizes states to receive associated federal transportation funds for related recreational uses. The Tennessee Department of Transportation administers funds for use by the Division.

### **Mandated and Optional Services and Means of Providing Them**

The Parks and Recreation Technical Advisory Service (PARTAS) provides park and recreation technical assistance and promotes recreation development. The Division also monitors local, state, and federal planning efforts through the *State Recreation Plan* and administers several state and federal recreation grant programs. These services provide support to local and state efforts for funding. The Division's program provides for the development of adequate park and recreation delivery system and trail and greenway systems for the citizens of Tennessee through an organized process.

The Department administers the funding generated by the Ducks Unlimited license plates. This ensures proper expenditures (TCA 55-4-256). Federal and state grant regulations require the states or the Division specifically to receive and administer collected funds (23 U.S.C. 206(c)(2), TCA 11-9-108, TCA 11-9-201, et. seq.).

The publication and distribution of *The Tennessee Conservationist* provides a critical service in educating the public and documenting conservation history in the state. This service relies on state funding, subscriber fees and circulation, in-house advertising and donations.

### **Performance Standards**

1. Increase magazine revenues and donations to reduce the level of state required funding.
2. Increase the number of counties who will have a local, state or federal trail or greenway system. (Based on 50 of the 95 counties who have initiated a greenway or trail system.)
3. Increase the number of local government entities that will develop or update a written recreation plan. (Based on 415 of the 445 local government entities that do not have a current written plan.)

4. Increase the number of counties who will create an organized park and recreation delivery system. (Based on 29 of 95 counties that are un-served.)

### Performance Measures

1. Percentage of magazine costs funded by state funds.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
40%	35%	30%

2. Number of counties that have added a greenway or trail system.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
50	55	63

3. Number of local government entities that have developed or updated a written recreation plan (Base year number is 30 out of 445).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
30	33	42

4. Number of counties served by the creation of a park and recreation delivery system (Base year number 66).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
66	69	75

### Obstacles to Meeting Objectives and Delivering Services

*The Tennessee Conservationist* has limited marketing resources to promote and increase subscriber numbers.

### Means of Overcoming Obstacles

The *Tennessee Conservationist* will develop a subscription flyer for the driver's license and auto tag renewals mailing. Grants, donations, and partners can help offset state support.

### Means of Maximizing Federal and Other Non-State Sources of Revenue

In FY 2000-2001, the Department solicited and accepted \$17,198 in donations to support the *Tennessee Conservationist*, including about \$4,000 donated by individual subscribers responding to the magazine's published plea for support. In FY2002-2003, the magazine received \$6,462 in donations of which \$2,665 was designated for school subscriptions.

The Department's Recreation Trails Program leveraged almost \$3 million in grants since 2000.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Since 1995, *The Tennessee Conservationist* has avoided costs of an estimated \$70,500 per year by not paying its contributors of articles or photographs. In January 2001, *The Tennessee Conservationist* raised subscription prices. The magazine's dust cover was eliminated with an annual savings of \$20,490. The Department will review the costs of publication and mailing continually for additional operational efficiencies and opportunities.

The Division has implemented standard operating procedures to streamline operations and staff time. The Division has partnered with not-for-profit organizations on training, certification and education initiatives to save money.

## **Future Challenges and Opportunities**

Self-sufficiency for *The Tennessee Conservationist* remains a challenge, particularly given its educational mandate and mission.

Tennessee's rapid population growth will continue to increase the demand for recreation services, planning and land acquisition, and particularly in the popular area of trails and greenways development.

## **Performance Data Schedule**

The Division will report performance data to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The magazine's self sufficiency is calculated through standard government accounting practices.

The number of local trail and greenway systems is verified through an internal database reported by project beneficiaries. The number of local government entities that develop and update a written recreation plan is verified by surveys performed by the Division's Parks and Recreation Technical Advisory Service consultants. The number of counties served by the creation of a park and recreation delivery system is verified through records/databases kept by the Division's Parks and Recreation Technical Advisory Service consultants.

## **327.04 Historical Commission**

The Tennessee Historical Commission (THC) seeks to preserve historical resources and educate the public about the state's historical heritage. The commission provides statewide historic preservation services in support of state and non state-owned historic sites, marks important locations, persons, and events, assists in worthy publication projects, reviews, comments on and identifies projects that may adversely impact state and non-state-owned historic properties;

locates, identifies, records, and nominates to the National Register of Historic Places all properties that meet National Register criteria; and implements other programs of the National Historic Preservation Act of 1966 as amended. Additionally, the commission, which also serves as the Tennessee Wars Commission has the responsibility for planning, preserving, and promoting structures, buildings, sites, and battlefields of Tennessee associated with the French and Indian War (1654-63), the American Revolutionary War (1675-83), War of 1812 (1812-15), U.S. Mexican War (1846-48), and the American Civil War (1861-65).

## **Statutory and Constitutional Objectives**

TCA 4-11-102 encourages the study of Tennessee's history for future generations. Other objectives include protecting, preserving, interpreting, operating, maintaining, and administering state-owned historic sites; marking important locations, persons, and events in Tennessee history; assisting in worthy publication projects; reviewing, commenting, and identifying projects that will potentially impact state-owned and non-state-owned historic properties.

TCA 4-11-108 establishes that historical properties owned by the state shall be placed under the authority of the commission.

The National Historic Preservation (NHP) Act of 1966 as amended (16 USC 470 et seq.) directs the commission to locate, identify, record, and nominate to the National Register of Historic Places all properties in the state that meet National Register (NR) criteria so that plans and provisions may be made for their preservation.

Under TCA 4-11-501, the Tennessee Wars Commission is directed to coordinate planning, preservation, and promotion of Tennessee structures, buildings, sites, and battlefields associated with the French and Indian War, American Revolutionary War, War of 1812, U. S. Mexican War, and the War Between the States and to report its results annually.

## **Mandated and Optional Services and Means of Providing Them**

The commission is required to administer state historic sites, place historical markers that denote important locations, persons, and events, assist in publication projects, and promote preservation and interpretation of structures, buildings, sites, and battlefields.

The commission implements the National Historic Preservation Act.

## **Performance Standards**

1. Commemorate persons, places, and events significant in Tennessee history by marking such sites with appropriate historical markers.
2. Survey and add properties to the National Register of Historic Places.
3. Review projects to ensure they are in compliance with the National Historic Preservation Act of 1966 as amended.

## Performance Measures

1. Number of historical markers placed throughout the state.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
20	20	20

2. Number of properties added to the National Register of Historic Places.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,431	400	500

3. Number of review and compliance projects reviewed within 30-calendar days from date of formal receipt.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,846	1,091	1,958

## Obstacles to Meeting Objectives and Delivering Services

None identified at this time.

## Means of Overcoming Obstacles

Not Applicable

## Means of Maximizing Federal and Other Non-State Sources of Revenue

Currently, the commission maximizes the federal grant dollars awarded to the state (on a 60/40 ratio) for historic preservation purpose.

Non-profit organizations and associations currently operate 16 state-owned historical sites. These organizations maintain approximately 100 buildings, 250 acres, and three cemeteries at these historical sites. The Risk Management Division of the Department of Finance and Administration (2001) estimates their value (not including contents) at \$12.5 million.

## Means of Avoiding Unnecessary Cost and Expenditures

The commission tracks all fiscal activities performed under these programs by individual projects or grants that are tied to cost centers. Program administrators and the executive director coordinate projects to achieve maximum efficiencies and minimize expenditures.

The commission may award federal and state grants, contract with any Tennessee county, municipality, or agency or any nonprofit corporation or organization to operate and maintain the state-owned historic sites under its jurisdiction. It may also contract with professional historic preservation architects to ensure it is meeting proper historic preservation standards.

## **Future Challenges and Opportunities**

Competition between preservation and other values and uses is a challenge to historic preservation.

“Heritage tourism” has increased in popularity and spurred additional interest in preservation and interpretation. The trend offers economic development opportunities for communities.

## **Performance Data Schedule**

The commission will report performance data to the Department’s management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The commission verifies the accuracy of data reported for performance standards by maintaining a database of the respective services.

## **327.06 Land and Water Conservation Fund (LWCF)**

The federal Land and Water Conservation Fund (LWCF) is a 50% matching federal program for the acquisition, rehabilitation, and development of public recreation areas and facilities. The Department’s Recreation Educational Services Division (RES) administers the Land and Water Conservation Fund grants.

## **Statutory and Constitutional Objectives**

The Land and Water Conservation Fund (LWCF) Act of 1965 (Public Law 88-578, 78 Stat 897) was enacted "...to assist in preserving, developing and assuring accessibility to...present and future generations...outdoor recreation resources...for individual active participation..."

## **Mandated and Optional Services and Means of Providing Them**

The Land and Water Conservation Fund grants provide opportunities to receive 50% matching funds in accordance with currently established state/federal policy. Contracts require that projects be started within 180 days of an executed contract.

This service cannot be privatized because the state has been designated by the National Park Service to administer these funds.

## **Performance Standards**

1. Provide periodic inspections of Land and Water Conservation Fund grant projects to assist with achieving a high level of project completion rate within the three-year contract period.

## **Performance Measures**

1. Percentage of projects completed within three-year grant contract where final inspections verify that final reimbursement can be made.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
70%	80%	90%

## **Obstacles to Meeting Objectives and Delivering Services**

Some projects run into difficulties that require a one-year extension. There is a potential change of funding levels. Also, a limited number of staff prevents timely project management.

## **Means of Overcoming Obstacles**

The Department can award one-year extension, make necessary amendments to the contract, or close contract as incomplete; encourage more creative revenue funding, and enhance regional technical program by increasing staff.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program has received \$4.2 million between 2000 and 2002.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Unnecessary costs and expenditures are avoided by using standard operating procedures (SOPs), carefully justifying reimbursements based on backup documentation and inspection results, and having random sample audits performed by the Department's Internal Audit Office up to once a year.

## **Future Challenges and Opportunities**

Although it is unclear if federal funding levels will increase or decrease, the program's goal is to fund the highest recreation needs in the state based on the State Recreation Plan and the Open Project Selection Process (OPSP).

Future challenges and opportunities include: effective recreation planning in order to adequately prioritize needs and to meet mandates such as the Americans with Disabilities Act (ADA), regional recreation planning, increased regional recreation opportunities, achieving the creation of



a seamless park system in Tennessee for local, state, and federal partnerships, balancing opposing recreation needs and meeting the growing challenge of developing a statewide system of trails and greenways.

### **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

### **Data Verification**

The grant team monitors the databases that show grant reviews and awards and verifies the data.

### **327.08 Archaeology**

The archaeology program is directed to protect, preserve, and study archaeological sites important to the understanding of prehistoric and historic past by providing archaeological information, advice, and services to the citizens of Tennessee, and local, state and federal agencies.

### **Statutory and Constitutional Objectives**

The Division of Archaeology is authorized to initiate, operate and maintain a state-wide program that shall include archaeological surveying, excavation, research, publication of findings, custodianship of artifacts, and educational programs (TCA 11-6-101 et seq.).

The National Historic Preservation Act (PL 89-665) requires that the state review all federal undertakings to determine their effect on archaeological sites. The federal Native American Graves Protection and Repatriation Act (PL 101-601) requires an inventory all Native American Indian remains and associated funerary objects in the state's possession.

### **Mandated and Optional Services and Means of Providing Them**

The Division of Archaeology was created in 1971 when the practice of archaeology was considerably different than it is today. Now most federal agencies and even TDOT have staff archaeologists to advise them, in addition; there are at least fifty private archaeological firms that operate in the state. The Division's services have evolved into the following key areas.

The primary role of the program is to be the institutional memory of previous archaeological work in Tennessee. Information on over 20,000 known sites and previous archaeological studies is recorded in a master inventory that is used on a daily basis by state and federal agencies, land use planners, and researchers. The Division is the sole source of such information. Since others usually generate the requests this activity is principally reactive in nature.

Another key role is to protect and preserve archaeological sites located on state-owned lands. The Division has the exclusive right to conduct archaeology on sites owned or controlled by the state. The State Archaeologist grants permits to other qualified archaeologists to conduct such work as may be necessary. All state agencies, departments, institutions, counties, and municipalities are directed to cooperate with the Division to prevent destruction of sites or to allow excavation of sites. Also by law, the Division has to be notified of the discovery of human remains on construction sites.

In addition, the program is a primary source of information and advice on archaeological matters for the public, professional archaeologists, museums, state agencies, law enforcement agencies and the private development community. This is the proactive component of the operation in-so-far-as active training and outreach programs can prevent archaeological site destruction.

No other agency or institution in Tennessee performs the above functions. The Division is well suited to carry out the functions due to its position in state government and perspective. The professional staff has expertise in most of the common areas of archaeological practice.

### **Performance Standards**

1. Respond to all requests for opinions, recommendations, site visits, and archaeological information within 30 days.
2. Conduct at least two archaeological preservation training and outreach programs each month for various sectors of the public.

### **Performance Measures**

1. Number of responses made to external requests for opinions, site visits, and information.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
6,500	7,000	7,000

2. Number of training and outreach programs given.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
18	24	30

### **Obstacles to Meeting Objectives and Delivering Services**

A primary obstacle to delivering effective services is inadequate office/laboratory facilities in Nashville. Since the Division's office and laboratory facilities are located in the floodplain of Seven Mile Creek, it suffered flood damage inside the building in 1998 and 2003. Upstream watershed development will increase the risk of flooding and will likely cause extensive damage to equipment and irreplaceable records.

The program needs a specialist on staff for the identification and treatment of human skeletal remains discovered on construction projects and in holdings. The program has over 300 human

skeletons in the collections and is frequently notified of construction discoveries of human remains. A physical anthropologist is needed to handle this aspect of the program.

The program needs access to an effective Geographic Information System to efficiently manage the archaeological site information and to communicate the information to affected groups.

### **Means of Overcoming Obstacles**

In the absence of increased budget funding for rent, the program will request permission for a temporary move to an unused state-owned building. An improvement request will be submitted in FY 2004-2005 to relocate the program to a permanent facility.

The Division will add a physical anthropologist to the staff by filling future vacancies in the Archaeologist 2 classification through the selective personnel register process. This process permits technical specialties to be selectively qualified for appointment. This program element may be shifted to the Pinson Mound regional office if the presence of human remains in the main office and laboratory becomes a sensitive issue.

If the service can be co-located with the Divisions of Geology and Natural Heritage, the program can use their GIS systems in an efficient manner. These three divisions perform similar functions of data collection, analysis and dissemination of results.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program does not receive any federal funds directly, but does use the Tennessee Historical Commission's federal historic preservation fund. The program contracts with the Commission to provide archaeological services for federal project reviews and to conduct archaeological surveys. The program uses existing staff salaries for the required 40% match. The current number of grants uses all of the program's matching salary capacity.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The program uses monthly production tracking to ensure appropriate and efficient allocation of fiscal and equipment resources. The program also uses avocational archaeologists to provide volunteer labor on archaeological projects to reduce direct costs. The program encourages students to use information from projects for thesis research. By combining some functions with Geology and Natural Heritage programs, savings can result through efficiency of scale and reduction of duplication.

### **Future Challenges and Opportunities**

Private sector archaeological consultants and university contracting offices have taken on the role of professional state-of-the art excavations. Increasingly, program staff will advise and oversee the work of others within the existing regulatory authority. The program needs to increase efforts to promote archaeological preservation through educational outreach programs with contractors, developers, architects, lawyers and city planners. The effective use of GIS programs integrated

with other land use planning agencies is a primary challenge for the future. The Division has the information on archaeological heritage but must insure that it gets to decision makers at the proper time.

### **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

### **Data Verification**

Program staff prepares daily logs and activity reports that are maintained in the office's central files. The program managers review this information to confirm that responses to requests have been completed.

### **327.11 Geology**

The geology program produces maps, reports and databases that are the basic source of geologic information for the people of Tennessee. It also ensures that oil and gas well drilling activity is conducted safely, economically and equitably.

### **Statutory and Constitutional Objectives**

TCA 11-5-103, 104 and 106 authorize the study of geology in Tennessee, the development of data and information to identify the location and nature of geologic resources, and encourage cooperative efforts with other scientific agencies. All funds generated from the sale of maps and reports are paid into the state treasury. TCA 60-1-101 et seq. defines the regulatory and environmental protection functions of the Tennessee Oil and Gas and Mineral Test Hole Regulatory Board. The board promotes the prudent development and conservation of Tennessee's energy and mineral resources.

### **Mandated and Optional Services and Means of Providing Them**

The geology program maps and identifies mineral resources, geology, and geologic hazards across the state (TCA 11-5-103 et seq.). The program serves as a clearinghouse for geologic information (TCA 11-5-103 (1)(9)). It collects, catalogues and analyzes geologic materials and geophysical logs taken from wells and test holes to define subsurface geologic horizons and delineate mineral zones. The program publishes study results and distributes them in the form of maps and reports, maps mineral deposits including coal, oil and gas, and maintains production records for oil and gas wells (TCA 11-5-104 (a)). The program maintains a maps and publications sales office for distribution of related published material.

The cooperative program combines the resources of the Division with other state, federal and local agencies in order to maximize the effectiveness of geological studies and activities (TCA

11-5-106). This ensures that the program makes the best use of limited financial and personnel resources through participation in cooperative mapping, resource assessment, and hazards mitigation programs.

TCA 60-1-202 (a)(3) and (4)(C) authorize the oil and gas board to collect data and make investigations and inspections to ensure that the environment is not adversely affected by drilling or well closure activities. The program also monitors bonding for well drilling and closure.

The program is a primary source of information, advice, and education about Tennessee's geology, mineral resources, geologic hazards, and oil and gas activity for the public, schools, professional geologists, state and federal agencies, environmental regulators and industries.

### **Performance Standards**

1. Systematically map 7-1/2 minute topographic quadrangles in order to publish corresponding geologic maps, environmental maps, and accompanying mineral resource summaries.
2. Perform required inspections on well construction, cementing surface casing, plugging and site reclamation.
3. Properly plug and reclaim abandoned wells.

### **Performance Measures**

1. Number of geologic maps and mineral resource summaries published.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	4	5

2. Percent of required inspections performed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
65%	90%	100%

3. Number of abandoned wells plugged and reclaimed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	40	40

### **Obstacles to Meeting Objectives and Delivering Services**

One cartographer provides all mapping services including drafting and scribing. The current process uses outdated technology and materials that have become increasingly hard to find.

Two oil and gas inspectors inspect thousands of wells statewide (producing and non producing). Oil and gas drilling is on the increase, with one to two hundred new wells drilled each year.

### **Means of Overcoming Obstacles**

Old mapping technology will be converted into digital mapping processes in order to save time and increase output.

The program will further target and refine inspections and training and redistribute inspectors as efficiently as possible. Monthly reporting will identify inspection routines and schedules to better utilize existing resources.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program will continue to seek U.S. Geological Survey matching funds for geologic mapping in the state, varying between \$40,000 and \$60,000 annually, and from the National Coal Resource Data System, which provides the program with an annual award of \$10,000 to update national coal resource data for Tennessee. Existing staff will be redirected to maximize available funding under federal cooperative programs. Other funding will be sought as opportunities arise.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The program will conduct all future mapping in-house in order to reduce costs associated with private sector contracts. Digital mapping will improve the quality of resource information, and will allow for “print on demand” services, thereby reducing storage costs and the need for warehouse space.

### **Future Challenges and Opportunities**

The program will aggressively seek to take advantage of digital mapping technology and training.

Well drilling is increasing and placing additional demands on existing field inspectors and compliance quality. Available funding, inadequate “grand-fathered” bonds, reliable contractors, and the number of state staff limit the number of well closures. A concerted effort will be made and additional resources will be sought to locate, identify and contract for the well closure of several thousand abandoned wells.

### **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

### **Data Verification**

Oil and gas reports will be maintained in the program’s central files and reviewed by the program manager. An Excel spreadsheet will be used to monitor and track compliance and performance.

### **327.18 Maintenance of Historic Sites**

This fund allows the Tennessee Historical Commission to preserve and maintain state-owned historic sites that fall under the management authority of the commission.

#### **Statutory and Constitutional Objectives**

The fund provides resources to maintain certain state owned historic sites pursuant to TCA 4-11-108. The objective is to maintain these sites in accordance with federal historic preservation standards.

#### **Mandated and Optional Services and Means of Providing Them**

The program's main service is to preserve and maintain the existing built state-owned historical resources according to Historic Preservation Standards set forth by the U.S. Secretary of the Interior. Presently, under a contractual agreement with the commission, nonprofit organizations and associations operate 17 state-owned historical sites, that are under the administrative authority of the commission. There are approximately 100 buildings, 250 acres, and three cemeteries maintained at these historical sites. According to the Department of Finance and Administration's Risk Management Division (2001), the approximate value of state-owned historical sites (not including contents) is \$12.5 million. This does not include other state owned historic sites characterized as parks or other state facilities with historic characteristics. The commission currently uses operating agreements with nonprofit organizations to maintain and operate state owned historic sites. Other means of maintaining state owned historic sites may exist but require changes in legislation.

#### **Performance Standards**

1. Maintain the 17 state-owned historic sites according to historic preservation standards for visitation by the public.

#### **Performance Measures**

1. Number of state-owned sites where maintenance projects are undertaken during the year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
17	15	17

#### **Obstacles to Meeting Objectives and Delivering Services**

Many state owned historic sites have a variety of structures, landforms and features that create diverse, complex and expensive maintenance challenges. The majority of these structures are fragile historic resources, thus requiring special diligence by following the Secretary of Interior's Historic Preservation Standards. If not maintained, the more endangered they become and the

cost of maintenance escalates. Because the needs outweigh the amount of state dollars appropriated, the agency falls further behind each year.

### **Means of Overcoming Obstacles**

The Tennessee Historical Commission will continue to request appropriate budgetary and staff improvements through the annual budgetary process. Additionally, as they have done in the past, the operating organizations will continue to raise funds to address the maintenance issues they faced in operating these sites for the state. The commission conducts surveys of the existing maintenance needs annually and seeks grants and partnering opportunities for maintenance improvements.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

In some cases, non-state operating organizations with sufficient budgets use self-generated dollars to leverage state appropriated funds for major maintenance projects. However, for the most part, organizational generated funds are the exception rather than the rule. When operating organizations raised funds, they are project specific. Funds can be used at the discretion of the commission to contract with any county, municipality or agency within the state or with any nonprofit corporation or organization or with any private individual, partnership, corporation or association for the administration, development or operation of such property, which contract shall be subject to periodic review.

There are no federal funds available for the maintenance of state-owned historic properties.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The program administrator, with the assistance of the historic preservation architect, generally conducts annual surveys to determine the various maintenance needs at all of the state-owned historic sites. Once the survey is completed, projects are objectively prioritized to determine which site's project is most needed given the fiscal restraint of the allocated dollars. All fiscal activities performed under this program are tracked by individual projects that are tied to cost centers. Projects are coordinated with the program administrator, the preservation architect, and the executive director in an effort to accrue the maximum efficiencies and minimize expenditures. Additionally, all projects that fall within a certain dollar amount must adhere to the policies as set forth by the Department of General Services, Division of Purchasing.

### **Future Challenges and Opportunities**

The future challenge to this program is to have the fiscal resources needed for various identified maintenance projects at the state-owned historic sites. While many of the sites' operating organizations provide the needed resources to properly maintain the state's historic properties, some may not be able to continue their responsibility and consequently return the properties to the state's direct jurisdiction.



## **Performance Data Schedule**

Performance data will be reported to Department management by the 15<sup>th</sup> of the month following the end of the quarter.

Year-end data and a timetable for the number of state-owned historic sites where maintenance projects are to be performed will be provided in an annual report.

## **Data Verification**

The program will verify the accuracy of data reported for the performance standard and measure by maintaining a database of the annual survey from the current year and the immediate preceding year(s). Each year the commission will track the prioritization of the individual sites' projects and those funded, bid, executed, and completed.

## **327.19 Local Parks Acquisition Fund**

The local parks acquisition fund, known as the Local Park and Recreation Fund (LPRF) provides grants to local governments for the purchase of land for parks, natural areas, greenways, and recreation facilities.

## **Statutory and Constitutional Objectives**

The Department pursuant to TCA 67-4-409 is authorized, in cooperation with the Department of Agriculture (DOA) and the Tennessee Wildlife Resources Agency (TWRA), to establish the "Local Parks Acquisition Fund" referred to as Local Park and Recreation Fund (LPRF). LPRF provides grants to all eligible local governments. A one and three-fourths cents (\$0.0175) tax is levied on all transfers of realty and credited to a special Department account in the general fund known as the "local parks land acquisition fund." The moneys in this fund shall be used only for grants to county and municipal governments for the purchase of land for parks, natural areas, greenways, and for the purchase of land for recreation facilities.

## **Mandated and Optional Services and Means of Providing Them**

The Commissioners of Environment and Conservation and Agriculture and the Director of the Tennessee Wildlife Resources Agency shall jointly establish priorities for the appropriate allocation of funds deposited in the local parks land acquisition fund. No project shall receive any such funds unless each such official has approved such expenditure. Such officials shall consider applications from county and municipal governments throughout the state as mandated by TCA 67-4-409.

The program fund may also be used for trail development and capital projects in parks, natural areas, and greenways. The Commissioner may allocate not more than 3.5% of the moneys in this fund for the administration of the fund. Money deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the fund not otherwise

expended shall be returned to and made a part of the fund. At least 60 percent of the funds allocated will go to municipal governments. Grantees must match the grant with an equal amount of money for each project. The Commissioners of the departments and the executive director of the Tennessee Wildlife Resources Agency may promulgate regulations for the application scoring process and inspections.

### **Performance Standards**

1. Provide periodic inspections of Local Parks and Recreation Fund grants to assist with achieving a high level of project completion rate within the three-year contract period.

### **Performance Measures**

1. Percent of projects completed within three-year grant contract where final inspections verify that final reimbursement can be made.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
70%	80%	90%

### **Obstacles to Meeting Objectives and Delivering Services**

Some projects run into difficulties that require a one-year extension.

### **Means of Overcoming Obstacles**

Award one-year extension, make necessary amendments to the contract, or close contract as incomplete.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal funds involved with this program.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The grant program avoids unnecessary costs and expenditures by using standard operating procedures (SOPs), carefully justifying reimbursements based on backup documentation and inspection results, and having a random sample audits performed by the Department/s Internal Audit up to once a year.

### **Future Challenges and Opportunities**

Future challenges and opportunities include: effective recreation planning in order to adequately prioritize needs and to meet mandates such as the Americans with Disabilities Act (ADA),

regional recreation planning, regional recreation opportunities, the creation of a seamless park system in Tennessee for local, state and federal partnerships, balancing opposing recreation needs and meeting the challenge of developing a statewide system of trails and greenways.

### **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

### **Data Verification**

The Grants Team monitors the databases that show grant award and the Grants Administrator verifies it.

### **327.20 State Lands Acquisition Fund**

The State Lands Acquisition Fund provides a mechanism for the acquisition of state land. The Department of Environment and Conservation, in cooperation with the Department of Agriculture and the Tennessee Wildlife Resources Agency, determines how the fund is administered and which parcels are acquired.

### **Statutory and Constitutional Objectives**

The State Lands Acquisition Fund described in TCA 67-4-409 derives funds from one and half cents (1.5) per \$100 of the recordation tax for the acquisition of land for any area designated as an historic place as evidenced by its inclusion on the National Register of Historic Places, state historic areas or sites, state parks, state forests, state natural areas, boundary areas along state scenic rivers, the state trails system, and for the acquisition of easements to protect any of the foregoing state areas. Such funds may also be used for trail development in the foregoing areas. TCA 67-4-409(j)(2)(A) allows the funds to be used for redevelopment, renovation, and restoration of historic theaters that are owned by a government entity or a not-for-profit corporation (or controlled affiliate) and listed on the National Register of Historic Places.

### **Mandated and Optional Services and Means of Providing Them**

This program is a key source of funds used in the acquisition of land for natural and or historic public lands or for new public lands. Funding supports trail construction to expand recreation services at these sites and historic preservation of old theatres. The Commissioners of the Department of Environment and Conservation and Department of Agriculture, and the executive director of the Tennessee Wildlife Resources Agency must agree upon priorities for acquisition. Once eligible acquisitions have been identified by the participating agencies, funds are drawn down from the State Land Acquisition Fund.

No funds deposited in the State Lands Acquisition Fund from the tax levied shall be obligated or expended to acquire any interest in real property through condemnation or the power of eminent domain. In the recent appropriations law, funds deposited in the State Lands Acquisition Fund could revert at the end of the fiscal year up to a minimum balance of \$10,000.

### **Performance Standards**

1. Identify and rank eligible state land acquisition projects by participating agencies for future funding.
2. Complete acquisition of State Building Commission approved projects within one year.

### **Performance Measures**

1. Number of eligible state land acquisition projects identified and ranked.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
5	10	20

2. Percentage of State Building Commission approved projects where the acquisition is completed within one year

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
40%	50%	75%

### **Obstacles to Meeting Objectives and Delivering Services**

The obstacles are: landowner refuses to sell, deed problems, approval value is less than the asking price, and problems with chain of title.

### **Means of Overcoming Obstacles**

Provide landowners with innovative techniques, such as tax incentives, donations; provide title insurance; and fundraisers from private sources, i.e., friends of group.

### **Means of Maximizing Federal and Other Non-State Sources Revenue**

There are no federal funds involved with the establishment of the State Lands Acquisition Fund. In general, federal and other land acquisition grant funds require a state match. Without the state fund, it is very difficult to leverage these funds.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Department through a State Lands Acquisition committee manages the State Lands Acquisition Fund. Standard operating procedures have been developed for this committee. The State Land Acquisition Fund receives 1.5 cents per \$100 on all real estate transfer fees.

## **Future Challenges and Opportunities**

Land preservation needs grow as Tennessee population grows. This need will catalyze greater public and private interest in land preservation

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The planning manager currently monitors the existing data. A new data verification system needs to be designed.

## **327.26 West Tennessee River Basin Authority**

The West Tennessee River Basin Authority (Basin Authority), administratively attached to the Department of Environment and Conservation and governed by a Board of Directors, operates in select portions of West Tennessee. The Basin Authority is responsible for preserving the flow and function of rivers and streams in the Forked Deer, Obion and Hatchie River Basins.

## **Statutory and Constitutional Objectives**

In previous years, the Basin Authority's mission and activities became entangled in legal conflicts, high operational costs and ineffective service to the public. Pursuant to TCA 64-1-1101, the West Tennessee River Basin Authority was reconfigured from a mission focusing on aggressive flood control measures to a more fiscally responsible, legally defensible and environmentally sound mission. The new statutory mission of the Authority is to preserve the natural flow and function of the Hatchie, Obion, and Forked Deer River Basins through environmentally sensitive stream maintenance. Specifically, the authority will also seek to: (1) maintain or stabilize the function of man-altered streams and rivers; (2) restore, where practicable, in a self-sustaining manner, natural stream and floodplain dynamics; (3) facilitate private activities that support its new mission; and (4) provide regional and local leadership for the conservation and sustainable utilization of these river basins. These activities shall be accomplished in the twenty county area of West Tennessee comprised of Decatur, Harding, Benton, Lauderdale, Lake, Dyer, Obion, Madison, Weakley, Henry, Gibson, Carroll, Haywood, Crockett, Henderson, Chester, McNairy, Tipton, Fayette, and Hardeman counties.

In addition to the charges outlined in TCA 64-1 Chapter 11, the Basin Authority has contractual responsibility for the U.S. Army Corps of Engineers' (USACE) West Tennessee Tributaries Project and Natural Resources Conservation Service's (NRCS) Porters Creek Watershed District in Hardeman County due to their related functions.

## **Mandated and Optional Services and Means of Providing Them**

State law or contractual obligations require the Basin Authority to perform environmentally sensitive stream maintenance in the Forked Deer, Hatchie, and Obion River Basins; stabilize man-altered streams and rivers; perform required maintenance on 120 flood control/sediment retention structures; in accordance with a federal court order, collect timber easements prior to initiating "work" in the Obion-Forked Deer River Basin; inspect and perform required maintenance on 35 Grade Control Structures; restore in a self sustaining manner, natural stream and floodplain dynamics.

These activities are largely achieved through specially trained state personnel and specialized, state owned equipment designed to avoid lawsuits and regulatory violations. Large construction projects and engineering design and surveying services are sub-contracted by the agency or through other government agencies such as the US Army Corps of Engineers and the USDA Natural Resources Conservation Service.

## **Performance Standards**

1. Perform minor maintenance on the Basin Authority's 120 Flood Control and Sediment Retention Structures.
2. Perform annual inspections on 35 Grade Control and Bridge Protection Structures.
3. Prioritize and perform Environmentally Sensitive Stream Maintenance (ESSM) with Amphibious Equipment on an as-needed basis.
4. Procure and record Timber Easements prior to initiating work on the North Fork of the South Fork Forked Deer River.

## **Performance Measures**

1. Number of structures on which required minor maintenance on flood control/sediment retention was performed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
40	40	40

2. Number of inspections for Complete Annual Grade Control Structure.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	35	35

3. Number of hours to prioritize and perform ESSM with Amphibious Equipment.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not available	700	800

4. Number of acres procured and recorded of Timber Easements in accordance with Agreed Order #78-2548-H.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2,745	1,100	3,000

### **Obstacles to Meeting Objectives and Delivering Services**

For years, the Basin Authority was legally and fiscally restricted from conducting work. Similar issues affected federal funding and projects. Large flood events, tornadoes and time added to previously existing blockages, increasing the backlog of needed work. Recent state fiscal issues and federal reductions have increased and magnified these needs. With renewed emphasis on lower cost, lower maintenance river restoration and light touch maintenance techniques, the program must spread limited funding further.

### **Means of Overcoming Obstacles**

In general the Basin Authority's heavy equipment fleet is aging and in need of replacement. The increased demand on the Basin Authority's workload complicates this issue. Supplemental funding sources must be identified to aid in the replacement of the fleet.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Participating counties now contribute approximately \$200,000 per year to the agency. Over the past five years, the Basin Authority averaged \$350,00-\$400,000 per year in federal/non-state revenues and in-kind services to support projects. Most of these funds were secured via "cost sharing" agreements. During FY 2002-2003, the Authority did not procure any new outside funding sources. Budget constraints froze the Basin Authority's capital maintenance funds (Allotment Code 327.24), and hampered its' ability to "cost share"

The WTRBA with the support of its' Board of Directors is attempting to maximize revenues by pursuing a variety of Federal and Non-State "cost-share" projects with other state and federal entities.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Basin Authority, under the administrative control of the Department, is governed and managed by a Board of Directors. The Board of Directors meets quarterly, and Executive Committee of the Board meets monthly to review financial reports, project status and to approve capital maintenance expenditures. Additionally, the existing protocols established by the Department of Finance and Administration (F&A) as well as the Department's protocols provide a means of monitoring expenditures and avoiding unnecessary costs.

## **Future Challenges and Opportunities**

The Basin Authority accepted increased responsibility for management of the Porters Creek Watershed District and the former “West 8 Association” County river maintenance program. With this new responsibility comes new expectations for the agency.

There are ample opportunities for the Basin Authority to increase its level of service and effectiveness through outside funding mechanisms such as the Federal Emergency Management Agency, the US Army Corps of Engineers, the Tennessee Valley Authority and the Natural Resources Conservation Service. The agency is assessing new funding opportunities through innovative partnerships with new and old projects that no longer have viable sponsors.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The Basin Authority data can be verified through nominal internal controls, and general management oversight of the daily operations. Also, feedback is obtained from other Department sources, Board members and landowners. Sources include formal reports, ad hoc reports, surveys, personal recollection and photography.

## **327.24 West Tennessee River Basin Authority Maintenance**

The West Tennessee River Basin Authority (WTRBA) maintenance program represents the core of the Authority’s mission. Maintenance funds ensure that rivers, flood control dams and other structures and other projects operate safely and efficiently to provide intended services to the public. Program maintenance also contributes significantly to limiting the liability of the State of Tennessee in regard to the failure of man-made structures in which the state operates. The Authority maintains rivers and structures in the twenty-county area of West Tennessee comprised of Benton, Decatur, Hardin, Lauderdale, Lake, Dyer, Obion, Madison, Weakley, Henry, Gibson, Carroll, Haywood, Crockett, Henderson, Chester, McNairy, Tipton, Fayette, and Hardeman counties.

## **Statutory and Constitutional Objectives**

Pursuant to TCA 64-1-1101, the West Tennessee River Basin Authority preserves the natural flow and function of the Hatchie, Obion, and Forked Deer River Basins through environmentally sensitive stream maintenance. The Authority is charged to restore natural streams in a self-sustaining manner and natural stream and floodplain dynamics and associated environmental and economic benefits.



The Authority's primary mission is to maintain river flow in most of West Tennessee's rivers. Most rivers in West Tennessee have been dug deeper and/or straightened in an attempt to increase their carrying capacity of water to reduce flooding of adjacent communities. West Tennessee's rivers are naturally changing due to annual flood cycles and highly erodible soils. Development has increased runoff of water across the land, which accelerates natural flooding and erosion. Increased volumes of water magnify the impacts of flooding. This increased energy forces rivers to alter their riverbanks, introduces soil and trees from the riverbanks, and soil and debris from adjacent land. This debris clogs the river channel and prevents it from carrying water resulting in increased flooding. These accumulations of woody debris must be removed or flooding will increase, and economic and environmental resources will be lost.

### **Mandated and Optional Services and Means of Providing Them**

The Authority performs environmentally sensitive stream maintenance in the Forked Deer, Hatchie, and Obion River Basins. It maintains 155 dams, sediment retention structures and grade control structures that contribute to overall flood control in the river basins. In addition, the Basin Authority has contractual maintenance responsibility for the "works of improvement" of the U.S. Army Corps of Engineers' (USACE) West Tennessee Tributaries Project and the Natural Resources Conservation Service's (NRCS) Porters Creek Watershed District. Additionally, and in accordance with a federal court order, the Authority is required to record conservation easements with landowners before it can initiate certain types of maintenance projects.

The Authority sub-contracts its engineering design and survey functions for maintenance projects to a private engineering consulting firm (selected through the state's bid process), and certain governmental agencies such as the Natural Resources Conservation Service, the U.S. Geological Survey, and the U.S. Army Corps of Engineers. In order to achieve statutorily required environmentally sensitive stream maintenance, the agency owns its own specialized maintenance equipment and maintains a small staff trained in avoiding environmental impacts. This new approach avoided the legal entanglements experienced consistently by the agency in previous years. The agency conducts major maintenance through approved contract and bidding procedures.

### **Performance Standards**

1. Perform major maintenance, as necessary, on the Basin Authority's 120 Flood Control and Sediment Retention Structures.
2. Complete reviews of mitigation plans that identify sources of excess sediments and define potential solutions and alternative actions resulting in long term economic and environmental benefits.

[A single mitigation plan prevents the loss of bottomland hardwood timber, increases flood transport capacity, and protects the aquatic and riverine floodplain habitats.]

### **Performance Measures**

1. Number of major maintenance projects completed on flood control/sediment retention structures.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	3	4

2. Number of completed mitigation plans.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1	1	1

## **Obstacles to Meeting Objectives and Delivering Services**

The majority of the Basin Authority's flood control and grade control structures are aging and in need of rehabilitation or major maintenance. In general the Basin Authority's heavy equipment fleet is aging and in need of replacement.

## **Means of Overcoming Obstacles**

As the structures continue to mature, supplemental funding sources must be identified. The increased demand on the Basin Authority's workload complicates this fact. Supplemental funding sources must be identified to aid in the replacement of the fleet.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Participating counties now contribute approximately \$200,000 per year to the agency. Over the past five years, the Basin Authority averaged \$350,00-\$400,000 per year in federal/non-state revenues and in-kind services to support projects. Most of these funds were secured via "cost sharing" agreements. During FY 2002-2003, the Authority did not procure any new outside funding sources. Budget constraints froze the Basin Authority's capital maintenance funds (Allotment Code 327.24), and hampered its' ability to "cost share". The FY03-04 state budget restored \$500,000 to the capital maintenance fund, enabling the Authority to pursue cost-sharing opportunities once again.

The WTRBA with the support of its' Board of Directors is attempting to maximize revenues by pursuing a variety of Federal and Non-State "cost-share" projects with other state and federal entities.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Basin Authority, under the administrative control of the Department, is governed and managed by a Board of Directors. The Board of Directors meets quarterly, and Executive Committee of the Board meets monthly to review financial reports, project status and to approve capital maintenance expenditures. Additionally, the existing protocols established by the Department of Finance and Administration (F&A) as well as the Department's protocols provide a means of monitoring expenditures and avoiding unnecessary costs.

## **Future Challenges and Opportunities**

The Basin Authority accepted increased responsibility for management of the Porters Creek Watershed District and the former “West 8 Association” County river maintenance program. With this new responsibility comes new expectations for the agency.

There are ample opportunities for the Basin Authority to increase its level of service and effectiveness through outside funding mechanisms such as the Federal Emergency Management Agency, the US Army Corps of Engineers, the Tennessee Valley Authority and the Natural Resources Conservation Service. The agency is assessing new funding opportunities through innovative partnerships with new and old projects that no longer have viable sponsors.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The Basin Authority data can be verified through nominal internal controls, and general management oversight of the daily operations. Also, feedback is obtained from other Department sources, Board members and landowners. Sources include formal reports, ad hoc reports, surveys, personal recollection and photography.

## **Environment**

### **327.30 Environmental Administration**

The environmental administration program serves as the central organizational entity for all environmental activities in the state and provides policy direction, guidance, and administrative oversight to fourteen divisions and the eight regional Environmental Assistance Centers (EACs) in performing their regulatory responsibilities.

## **Statutory and Constitutional Objectives**

The Department’s environmental administrative functions and program oversight of the regulatory programs are required pursuant to the enabling environmental legislation that are delineated under the environmental program allotment codes.

The Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (42 U.S.C. 9601) requires in the case of an injury to, destruction of, or loss of natural resources under the liability provisions compensation for damages to Tennessee’s natural resources.

## **Mandated and Optional Services and Means of Providing Them**

The environmental administrative provides management oversight at the deputy commissioner level with regard to all environmental regulatory programs and their operations. This program serves as the central point of contact and focal point for administration of the U.S. Environmental Protection Agency delegated programs and state enabling legislation. In addition, the Department's eight regional Environmental Assistance Centers (EACs) provide assistance service to the regulated community, the public, and other governmental agencies. The environmental compliance and enforcement activities across all the Department's regulatory programs are coordinated and monitored to assure consistency and timely efforts are achieved. This activity will emphasize meeting or exceeding all state and federal environmental standards.

Within this program, the Natural Resources Damage Assessment (NRDA) activity serves to evaluate damages to Tennessee's natural resources resulting from the release of hazardous substances or the discharge of oil or petroleum products. Program responsibilities include determination of injury and liability, assessing compensatory damages for injury, loss of use, and/or destruction of natural resources and recover of compensatory and/or restoration funds and/or equivalent resources. Program staff work in concert with all regulatory divisions of the Department, the Office of General Counsel, Office of State Attorney General, and other State agencies. Most costs associated with a NRDA case are recoverable under this law. Privatization is not an option for the NRDA program's services. Federal law directs the state as the "Trustee" for the state's natural resources and therefore, no other person/organization could assume this authority/responsibility.

## **Performance Standards**

1. Maintain and coordinate issuance of enforcement orders to achieve accurate and timely issuance.

## **Performance Measures**

1. Number of enforcement orders issued.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
825	800	800

## **Obstacles to Meeting Objectives and Delivering Services**

The environmental program managers face an increasing complex array of technical and legal issues requiring them to balance the law and public interests against various needs of the regulated community.

## **Means of Overcoming Obstacles**

Given the above obstacle, this reality will require the Department get and maintain the sharpest, most energetic and best prepared staff possible.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

No federal funds or reimbursements have been received under the NRDA program. However, there are three major NRDA cases underway which are anticipated to result in the recovery of funds.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Standard Operating Procedures are being developed, as are specific training programs to ensure Department staff participation and understanding of program functions.

Under the NRDA regulations, Trustees can recover expenses incurred during a NRDA case. Therefore, most funds expended in conjunction with a NRDA case would be recoverable.

There are no federal funds at this time for NRDA activities.

## **Future Challenges and Opportunities**

Over the next five years, the environmental programs will serve as the ultimate benchmark for environmental protection by (1) increasing coordination and interaction with governmental partners including legislators, regulators, municipalities, and other government agencies; (2) monitoring the development of advanced environmental performance management systems for the regulated community; (3) evaluating compliance incentives that create a focus on prevention versus enforcement; (4) developing and holding compliance workshops for the regulated community to improve compliance; and (5) fostering and encouraging an environmental ethic among Department staff, government, citizens, and visitors to Tennessee.

By promoting, designing, and delivering a high level of customer service, the environmental programs will (1) develop a consistent tracking mechanism for communication regarding both regular and unique correspondence and information across the Department; (2) improve department related information available on the state web site; (3) develop a formal program to establish and enhance public and private partnerships across various stakeholder groups; (4) improve public input process and be more proactive in responding to community concerns; and (5) implement formal internal communications plan so all Department employees are better informed and versed on activities outside their own program.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The data is verified through a standardized method for reporting enforcement actions and recorded by each regulatory program. The coordinator verifies the data as submitted and reviews before entering into the database.

## **327.14 Natural Heritage**

The Natural Heritage Program seeks to restore and conserve Tennessee's natural biological diversity by gathering and analyzing statewide natural resource information and distributing it to internal and external customers, and by establishing and managing a statewide system of State Natural Areas and State Scenic Rivers.

### **Statutory and Constitutional Objectives**

The Natural Areas Preservation Act of 1971 requires the Department to administer a legislatively designated state natural areas system, establish voluntary cooperative agreements for preservation of privately owned lands, and to make and enforce appropriate regulations protecting these resources (TCA 11-14-101 et. seq.).

The Tennessee Scenic Rivers Act of 1968 requires the Department to administer a legislatively designated state scenic river system (TCA 11-13-101 et. seq.) in cooperation with the Tennessee Wildlife Resources Agency (TCA 11-13-106), to establish voluntary cooperative agreements for preservation of privately owned lands along scenic rivers (TCA 11-13-118), and make and enforce appropriate regulations protecting these resources (TCA 11-13-106).

The Rare Plant Protection and Conservation Act of 1985 requires the Department or Commissioner to conduct investigations on rare plants throughout the state to determine their appropriate conservation measures, to promulgate a list of endangered plants to be reviewed by the Commissioner of Agriculture and revised at least every three years as necessary (TCA 70-8-301 et. seq.), to promulgate regulations to issue annual licenses to nursery farmers for the commercial sale of state endangered plants, and to maintain a list of threatened and special concern plants (TCA 70-8-302 et. seq.).

The Ginseng Dealer Registration Act of 1983, TCA 62-28-101 et. seq., states the Department or Commissioner shall register and permit ginseng dealers who purchases ginseng collected in Tennessee.

### **Mandated and Optional Services and Means of Providing Them**

The primary service of the Natural Areas Preservation Act of 1971 is the establishment and management of a comprehensive system of natural areas throughout the state. State natural areas protect the natural biological diversity of Tennessee and areas of exceptional scenic and geologic values, and provide protected habitat for rare terrestrial and aquatic species. These services preserve natural resources and ensure that they are protected and managed consistently across the state. In many cases, the actual day-to-day management and oversight of individual natural areas is provided by other state, federal, or local agencies, private landowners, or private conservation organizations through lease or other instruments under the oversight of the program through regional field staff.

The primary service of the Tennessee Scenic Rivers Act of 1968 is the establishment and management of a comprehensive system of scenic rivers throughout the state. State scenic rivers protect the natural biological diversity of Tennessee's river resources including rivers of exceptional scenic qualities, and provide protected habitat for rare aquatic species. Often

correlated to this natural beauty are the most unique recreational experiences and rarest ecological features and life forms found in the state. The program seeks not only to preserve the scenic rivers but also to begin a dialogue with adjacent landowners to restore and preserve the scenic vistas and riparian areas immediately adjacent to and viewed from the river. It also seeks to conserve associated land resources whose alteration can affect the scenic river.

The services of the Rare Plant Protection and Conservation Act of 1985 are to ensure that rare plants in Tennessee are conserved by conducting studies on the status and distribution of rare plants, establishing a state list of endangered, threatened, and special concern plant species, working with public and private landowners, land managers, and developers to protect rare plants on their properties, and regulating the commercial trade in state endangered plant species.

The Cooperative Agreement maintains an agreement with the U.S. Fish and Wildlife Service regarding the "Endangered and Threatened Plant Species, 1986", which is renewed annually. This agreement establishes the Department as the lead agency in Tennessee for federally funded listing and recovery activities for plants under the Endangered Species Act of 1973.

Federal laws, such as the Convention on International Trade in Endangered Species (CITES), administered by the USFWS, require that Tennessee have a program to regulate interstate commerce in ginseng trade. State laws, specifically TCA 62-28-100, the Ginseng Dealer Registration Act of 1983 and TCA 70-8-200, the Ginseng Harvest Season Act of 1985, require the Department to conduct certain activities relative to ginseng commerce (70-8-304). Currently the Division conducts these programs with assistance from the State Parks.

Convention on International Trade in Endangered Species (CITES) requires that Tennessee have a program to monitor and certify ginseng before it can be legally exported.

## **Performance Standards**

1. Protect and preserve Tennessee's biological diversity of plant life.
2. Protect and preserve Tennessee's biological diversity of animal life.  
[Note for Performance Standards 1 and 2: For these purposes, rare species are defined as those having a State Rank of S1-Critically Imperiled, or S2-Imperiled. As of June 30, 2003, there are a total of 868 such rare species in Tennessee - 456 plant and 412 animal species.]
3. Protect and preserve Tennessee's natural biological diversity of terrestrial and aquatic ecological systems.
4. Protect and preserve Tennessee's natural biological diversity of riverine systems.  
[Note for Performance Standards 3 and 4: For these purposes, targeted ecoregions for natural areas are Level IV Ecoregions as defined in the publication, Ecoregions of Tennessee, EPA/600/R-97/022, February 1997; and for scenic rivers are Six-Digit Hydrologic Watershed Units. There are 25 Level IV Ecoregions and 11 Six-Digit Hydrologic Units in Tennessee.]

## **Performance Measures**

1. Percent of targeted rare plant species (S1 and S2) with a minimum of at least one protected population in at least one state natural area and/or state scenic river. (Note that some species occur in both natural areas and rivers).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
25% (116 species)	27% (125 species)	30% (135 species)

2. Percent of targeted rare animal species (S1 and S2) with a minimum of at least one protected population in at least 1 state natural area and/or state scenic river. (Note that some species occur in both natural areas and rivers).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
19% (79 species)	22% (90 species)	24% (100 species)

3. Percent of the 25 targeted ecoregions with at least 1 state natural area for each 5% of the state covered by each ecoregion.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
80% (20 total)	88% (22 total)	96% (24 total)

4. Percent of the 11 targeted watersheds with at least 1 scenic river.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
73% (8 total)	73% (8 total)	82% (9 total)

### **Obstacles to Meeting Objectives and Delivering Services**

With a system of 68 natural areas and 13 scenic rivers located throughout the state, the lack of an adequate number of decentralized field staff is a major impediment to effectively meeting program objectives and delivering services. Currently the program has four regional field staff (one in three EACs and one in the Central Office); however, a total of eight field staff (one in each EAC) are needed to adequately address the programs obstacles to meeting objectives and delivering services associated with its performance standards and measures. The work of this program is very labor intensive, and therefore is dependent on recruitment and retention of an appropriate number of highly skilled, technical, and dedicated staff. Lack of competent, qualified, and dedicated staff can create significant impediments to meeting objectives and delivering services. Increasing service demands and decreasing state funds, along with a heavy dependence of non-recurring non-state revenues, also present significant barriers to meeting program objectives and delivering services.

### **Means of Overcoming Obstacles**

The program aggressively and successfully seeks grants and donated funds and services in order to overcome its budgetary obstacles and operate within its budget, while continuing to address its current and new objectives. Through such efforts the program has realized some success in offsetting the impacts of limited resources and growing demands. Effective partnerships with other state, federal and local governmental agencies, private non-profit conservation organizations, private businesses and corporations, and individuals have also proven to be invaluable to the program in overcoming its obstacles. Adequate training in, and the utilization of, the best available information and technology resources greatly increase the effectiveness and efficiencies of the program. Additionally, aggressively recruiting highly skilled and experienced staff, and working closely with the Department of Personnel in reviewing and rating select



applications, will be beneficial in overcoming the challenges of filling vacancies with the most qualified staff. Another important component in overcoming obstacles is continuing to build a strong and broad based constituency for the conservation of Tennessee's natural heritage, and working more closely with the program's Natural Areas Advisory Committee.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program routinely identifies, applies for, and is awarded grants and secures charitable contributions from the private sector to leverage its land preservation objectives, its Scenic Rivers and Natural Areas objectives, and its rare species protection objectives. Once secured, these federal/non-state revenues are tracked and accounted for at the individual project level to maximize their effectiveness. The program is very active in numerous state, federal, and private conservation initiatives, which help significantly with the leveraging of existing resources to capture federal and non-state revenues, and in maximizing the effectiveness of these revenues.

### **Means of Avoiding Unnecessary Costs and Expenditures**

All activities are coordinated with other state, federal, and private partners and cooperators to minimize duplication of effort and to maximize leveraging of program resources. Annual and quarterly work plans are utilized to objectively prioritize work, and volunteers/cooperators are routinely utilized to help accomplish specific work projects. The program's operational structure and organization are constantly reviewed to ensure the greatest of efficiencies, and its staff is constantly evaluated to ensure that their skills are being most effectively utilized.

### **Future Challenges and Opportunities**

A significant challenge to the program is to balance the protection of Tennessee's rich natural heritage with its continued strong economic growth. Tennessee's wealth of biological diversity was documented in an April 2002 report by NatureServe and The Nature Conservancy. That report ranked Tennessee 13<sup>th</sup> highest in the nation in total species diversity, 15<sup>th</sup> highest in species endemism, 4<sup>th</sup> highest in amphibian diversity, and 2<sup>nd</sup> highest in freshwater fish diversity. However, Tennessee's rapid economic growth alters natural habitats and the life within them. That same report ranked Tennessee 7th highest in the nation in total extinctions, 10th highest in overall risk to total species diversity, 8th highest in risk to amphibian diversity, and 9th highest in risk to fish diversity. According to the USFWS, Tennessee has more federally listed species of plants and animals than all but four other states. Another recent report by the American Farmland Trust found that Tennessee had the nation's 8th highest rate of loss of land to development, losing nearly 25,000 acres per year from 1992 to 1997.

Another significant challenge to the program is in its attempts to regulate interstate commerce in ginseng. The ginseng program should be moved to a traditional agricultural commodity program. Federal laws, such as CITES (administered by the USFWS) require that Tennessee have a program to regulate interstate commerce in ginseng trade before its citizens can export ginseng from the state. State laws, specifically TCA 62-28-100, the Ginseng Dealer Registration Act of 1983 and TCA 70-8-200, the Ginseng Harvest Season Act of 1985, would allow the Agriculture Department to administrate a ginseng program. Ginseng is a commodity found in rural areas

much like forest and agricultural products. An agricultural based commodity program may be better suited to manage it.

### **Performance Data Schedule**

Performance data is collected annually, since additions to the state natural areas and scenic rivers systems are made through an act of the general assembly. Performance reporting will be done at the conclusion of each fiscal year.

### **Data Verification**

The program already has industry standard data verification, or quality control, built into its data collection and management processes. Data verification standards are developed for use in heritage programs throughout North and Central America. Additional data verification processes are employed in data exchanges with the program's parent organization, NatureServe, as well as with the Tennessee Valley Authority. Specific guidelines, training, and manuals provide for standardized data gathering and verification.

### **327.23 Used Oil Collection Fund**

The Used Oil Collection program within the Division of Community Assistance promotes the proper disposal of used oil and the inspection of used oil facilities by the Division of Solid Waste Management.

### **Statutory and Constitutional Objectives**

The Used Oil Collection (UOC) Act of 1993 (TCA 68-211-1001) seeks proper disposal of used oil.

The Code of Federal Regulation (40 CFR 279) provides exemption of used oil from the hazardous waste regulation and permits used oil to be managed as a recycled material. Departmental rules under Chapter 1200-1-11-11, Standards for Management of Used Oil adopts the federal regulation 40 CFR 279 and incorporates additional language from the UOC Act.

### **Mandated and Optional Services and the Means of Providing Them**

Funds support used oil collection facilities and programs such as oil recycling. The program provides technical and financial assistance to local governments and private agencies that become used oil collection centers. The program also provides general information to the public concerning proper disposal of used oil, location of disposal facilities and other information pertinent to proper handling of used oil. The Department can contract with marketing firms to develop signage, educational materials as well as advertisements for radio and television. Compliance inspections and annual reporting for processors and transporters ensure that management standards are met and that used oil is properly handled.

The Department provides grants pursuant to TCA 68-211-1005(4) to establish collection sites for the collection and proper disposal of used oil. State law (TCA 68-211-1005) requires the Department establish and maintain a toll-free telephone number for information concerning location and hours of operation of collection and other information concerning the proper disposal of used oil. TCA 68-211-1016 prohibits the general public from improperly using or discharging of used oil into the environment.

### **Performance Standards**

1. Inspect used oil management practices at 40% of large and small quantity hazardous waste generators inspected.  
[This is included in the Division of Solid Waste Management's annual program grant commitment to EPA.]

### **Performance Measures**

1. Number of used oil facilities to be inspected to assure compliance with used oil management practices.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
71	71	71

### **Obstacles to Meeting Objectives and Delivering Services**

There are currently no obstacles that interfere with this program.

### **Means of Overcoming Obstacles**

Not Applicable

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program does not receive any federal funding.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The program will continue to comply with standard operating procedures established for grants.

The program manager will continue to monitor contracts and develop requests for proposals to seek best prices for work to be accomplished; and will continue to provide technical assistance to local governments in the establishment and operation of collection sites.

The program will coordinate used oil facility inspections with related solid waste activities to minimize travel.

### **Future Challenges and Opportunities**

The Tennessee General Assembly could broaden the Used Oil Collection Act to include other exempt automobile fluids.

### **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter and as required by the annual EPA work plan commitments.

### **Data Verification**

The performance standard targets 40% of the large and small quantity hazardous generators inspected, which is verified through two data collection systems. RCRAInfo is a nation-wide EPA database used to record inspections of hazardous waste management facilities. RCRAInfo provides records on the universe of inspections conducted. A separate Excel tracking system is used in each EAC to record specific facilities where used oil inspections are conducted. Comparisons between the two databases derive the number of inspections accomplished each quarter. Written reports document inspections and are on file for audits.

## **327.28 Tennessee Drycleaner Environmental Response Program**

The Drycleaner Environmental Response Program establishes a fund for oversight, investigation, and remediation of eligible properties contaminated with solvents from currently operating and formerly operated drycleaning facilities. One requirement for fund eligibility for operating dry cleaning facilities is the use of practices to minimize the potential for ongoing or additional release of drycleaning solvent.

There are approximately 500 drycleaning plants currently operating in Tennessee. Another 1,500-2,500 formerly used drycleaning sites may be impacted, undervalued, or not utilized due to perceived or real drycleaning related contamination. This program provides a mechanism to put these properties back into active use while protecting public health and not using State appropriated dollars.

### **Statutory and Constitutional Objectives**

The Drycleaner Environmental Response Program is administratively attached to the Division of Superfund. The program's mission is to identify, investigate, and clean up sites contaminated with dry cleaning solvent to allow continued or new use of property with appropriate protection for public health and the environment.

## **Mandated and Optional Services and Means of Providing Them**

TCA 68-217-105 requires the program to develop and approve investigation and remediation strategies, establish a mechanism for approving contractors to perform investigation and remediation actions, establish a schedule of acceptable annual registration fees for drycleaning facilities, and establish costs for services rendered by approved contractors.

Work to clean up sites is managed as follows:

Contractors are approved by the program to investigate and remediate drycleaning sites.

Proposed site investigation and remediation work plans prepared by approved contractors are reviewed and approved by the program prior to performing work at the site. Costs associated with the approved work is also evaluated and approved before work is performed.

Only pre-approved work and costs are reimbursed from the Fund.

## **Performance Standards**

1. Issue completion letters to applicants after completion of all required interim action, investigation, remediation or other activities at a site.
2. Oversee the cleanup of drycleaning solvent impacted sites that are progressing toward cleanup through ongoing environmental response activities.

## **Performance Measures**

1. Number of Letters of Completion issued after completion of all required interim action, investigation, remediation or other activities.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	3	3

2. Number of drycleaning solvent impacted sites progressing toward cleanup.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
30	35	40

## **Obstacles to Meeting Objectives and Delivering Services**

Clean up of contaminated sites is technology limited. The primary drycleaning solvent in use is perchloroethylene, a chlorinated solvent, which is a mobile and persistent contaminant that is difficult to find and remove from soil and ground water. The statute requires that response actions be cost-effective, reasonable and technically feasible. It may not be practical to restore every site to allow full use of the property or ground water.

Program fees are derived from annual fees and solvent surcharges based on the amount of drycleaning solvent purchased. Economic conditions and the shift to more casual attire have impacted the drycleaning industry and thus have resulted in reduced fee collections.

It is anticipated that by fiscal year 2005/2006 that costs of investigation and remediation activities should use any balance in the Fund that accumulated during program startup.

### **Means of Overcoming Obstacles**

Institutional controls and engineered physical controls may be used at some sites to protect public health. In these instances, the sites must be managed in the future by assuring that the limitations on the land and ground water are understood and preserved.

Program rules require pre-approval of environmental response activities by program staff. This process helps ensure that the activities are cost-effective, reasonable and technically feasible and ensures that the program does not obligate more funds than are available.

The Dry Cleaning Environmental Response Program Board is responsible for any adjustment of program fees.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Annual registration fees collected from drycleaning facilities and surcharges on drycleaning solvents are collected and deposited into the Drycleaner Environmental Response Fund to support this program. Therefore, this program does not receive any state appropriation.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Reimbursement requests are reviewed to ensure that the work and costs were consistent with the previously approved work plan and cost proposal. Disallowed or questioned costs are deducted from the amount reimbursed to the applicant.

Only contractors that demonstrate they are competent are included in the program's approved contractor list.

### **Future Challenges and Opportunities**

The Fund has not been in existence long enough to evaluate if the fees collected are in balance with the obligations for necessary cleanup.

Mega sites may not be adequately addressed from the Fund. The statute limits reimbursement of environmental response activities to \$200,000 per site, per year. Most applicants cannot pay a contractor and then wait for reimbursement from the Fund especially if it may take several years at \$200,000 per year. The Fund is capped at \$10,000,000.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

Performance standard 1 is verified by the total number of “Letters of Completion” issued both quarterly and annually. Completion letters are maintained in both site files and a separate file for completion letters.

Performance standard 2 is verified by comparing the list of facilities indicated as showing progress with the information in the program's files.

## **327.31 Air Pollution Control**

The Air Pollution Control Division is responsible for the regulation of air contaminants (pollutants) that are emitted to the atmosphere, for the enforcement of state and federal regulations, and for the measurement of air quality.

## **Statutory and Constitutional Objectives**

The Clean Air Act, 42 U.S.C 7401, requires all states to develop state implementation plans (SIPs) that explain how each state will meet federal clean air standards and requirements.

The Tennessee Air Quality Act, TCA 68-201-101 et seq., charges the Department with the responsibility of preparing regulations to bring about clean air and the Board with the responsibility of approving the regulations. The Department acts as the Board's technical advisor to do scientific studies to determine if Tennessee's air quality meets established standards to protect public health and welfare.

The Tennessee Air Quality Act also puts into place an enforcement mechanism where the Department initiates enforcement action against persons violating clean air rules and/or permit requirements and where the board would hear any appeals of those enforcement actions.

## **Mandated and Optional Services and Means of Providing Them**

State, local and federal agencies monitor air quality at several sites across the state to determine if public health and welfare are being protected. The state compiles an inventory of emissions being released by sources of air pollution across the state and that information is fed to a complex computer model that is used to predict whether or not the regulations in place are sufficiently stringent to continue meeting the air quality standards. These studies are used to prepare rules for the board's review and adoption. Those rules are the basis for issuing permits to construct air pollution sources and for permits to operate air pollution sources. Inspections are conducted at stationary sources of air pollution on an as needed basis to ensure that the company is meeting the

regulations and permit requirements. Some very large sources of air pollution are required to install emission monitors to continually report the amount of air pollution they are releasing. Mobile sources of air pollution are subject to a vehicle emission testing program in areas of the state that need the most stringent degree of regulation to meet air quality standards. The Department prepares enforcement orders against violators. The state coordinates its air pollution control efforts with four local government air pollution control programs in Shelby, Davidson, Hamilton and Knox Counties.

Federal grants, state appropriations and fees charged under the Tennessee Environmental Protection Fund Act, TCA 68-203-101 et seq. fund these services. Vehicle emission testing is outsourced to a private contractor and technical consulting for extremely complex scientific studies is outsourced on a contract with the University of Tennessee at Knoxville.

## Performance Standards

1. Attain new, more restrictive federal air quality standards for ozone by establishing and maintaining Early Action Compacts. The *Early Action Compact* process is a voluntary program with the state, local and federal government designed to achieve clean air quicker than the new federal ozone air quality standards require.
2. Attain new, more restrictive federal air quality standards for fine particulate matter by negotiating early compliance incentives with the federal government.
3. Protect and improve air quality in Tennessee's special places, such as national parks.
4. Develop innovative permitting and inspection solutions to maximize resources and provide more efficient services.
5. Inspect all major and conditional major air pollution sources at least once a year.
6. Increase the number of minor source inspections so all minor pollution source facilities would be inspected a least once every three to five years.

## Performance Measures

1. Early Attainment of the New Ozone Clean Air Standards Through Early Action Compacts – Progress is to be shown in parts per million by averaging the design values of all ozone-monitoring sites in the state. Adverse weather and transport of ozone from other states can be a factor in attaining the performance measure. Reductions may not be seen until the 2005-2007 timeframe in order to get the more significant control measures in place.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0.088	0.088	0.087

2. Early Compliance Incentives For The New PM<sub>2.5</sub> Fine Particle Standards – Progress is to be shown in µg/m<sup>3</sup> by averaging the annual design values of all PM<sub>2.5</sub> Fine Particle Monitoring Sites.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
16.1	16.0	15.9

3. Protect and Improve Air Quality In Tennessee's Special Places For Future Generations – Measured Visibility Improvement at IMPROVE Monitoring Sites Measured in Deciviews, a



Scientific Measure of Visibility – Attainment of the measure may be influenced by transport of emissions from other neighboring states.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
21.4985	21.4980	21.4975

4. Develop Innovative Permitting and Inspection Solutions to Maximize Resources and Provide More Efficient Service – Measured in average days to issue a construction permit from receipt of a complete permit application.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
90	88	86

5. Number and percent of Title 5 and Conditional Major facilities (larger sized air pollution sources) inspected annually.

Actual FY (2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
631/100%	630/100%	634/100%

6. Increase the number of minor source inspections so all minor pollution source facilities would be inspected a least once every three to five years.

Actual FY 2002-2003	Estimate FY 2003-2004	Target FY 2004-2005
1%	1%	20%

### **Obstacles to Meeting Objectives and Delivering Services**

Funding could produce some future problems in that the federal Clean Air Act (EPA) Section 105 funds have not kept up with the cost of inflation, and there may be possible future reductions in the funding provided through the state budget system. The use of Title V fees is limited and may not be used to accommodate the needed funding to meet the various commitments in other program areas. Title V fees are to only be used for the major source operating permit system and closely related activities.

### **Means of Overcoming Obstacles**

Title V fees can be raised by the Air Pollution Control Board upon a satisfactory showing to the Board that the fee rate increase is needed to comply with federal requirements. Non-title V fees are currently set at the statutory cap of \$12.50 per ton of allowable emissions and may need to be restructured to a minimum fee to insure that the costs of regulating such sources is captured by the fee charged.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

EPA's Clean Air Act Section 103 Grant funds, which require no state matching funds, may not be available for future funding. These funds are currently used in part to pay for PM<sub>2.5</sub> fine particulate matter air monitoring activities and laboratory support. The state should authorize the

expenditure of these limited federal funds as quickly as possible to purchase air quality monitors that will measure fine particulate matter and for any laboratory analysis costs to examine the samples collected by these monitors.

EPA's Section 105 Grant funds are another source of federal funding, but state-matching funding may be required. Currently, the 105 Grant match is 40% in state dollars that can be matched with non-Title V fee money or state appropriations. Over the years, the 105 Grant has remained basically level and has not kept up with inflation and other cost increases such as payroll etc. The use of these funds is limited to paying for general air pollution control activities identified in the EPA Region 4 Air Planning Agreement.

Vehicle emission testing fees were recently raised from \$6.00 per test to \$10.00 per test. The testing program may need to be significantly expanded to attain the new federal ozone air quality standards. The extra volume in vehicles tested could possibly raise additional revenue.

The Department's radon program has been able to perform an in-kind service match to qualify for federal funding without expending state appropriations. The Department operated visible emission evaluation school that provides federally mandated training for Department inspectors has its operating costs offset by training persons in the private sector for a fee.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The use of Standard Operating Procedures (SOPs) insures quality and consistency. They also minimize the time needed to determine the proper course of action to react to a situation.

Rules have been changed to allow a greater number of sources to qualify as insignificant emission units or exempted units and not consume permit writer time to prepare a permit. The Department is also developing a flexible permit to allow permittees to make certain changes under the flexibility of the permit without seeking a permit revision.

### **Future Challenges and Opportunities**

Future challenges will be encountered in the implementation of the emission reduction strategies developed for the selected Early Action Compacts in Tennessee, and meeting the 2007 attainment demonstration deadlines for ozone. This will likely require the expansion of vehicle emission testing to other counties in the state. Other challenges are expected in the implementation of a statewide continuous particulate matter PM<sub>2.5</sub> monitoring network operated by Tennessee and the local programs, and meeting the future attainment deadlines for particulate matter PM<sub>2.5</sub> statewide and implementing a statewide air toxics monitoring program.

Implementation of new federal programs, such as MACT (Maximum Achievable Control Technology) and PSD / NSR Rule changes published by EPA on December 31, 2002, effective February 3, 2003, as well as the anticipated replacement of the EPA data management databases/system, will also present a challenge for the Department. There will also be an increased emphasis on air toxics monitoring studies, which is an expensive undertaking.

## **Performance Data Schedule**

Performance data will be reported to Department management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The managers and other specified personnel verify the information entered into the EPA data management system. The systems for tracking the data are automated making the data in the system readily available.

Ambient air quality data undergoes strict quality assurance procedures using SOPs that have been approved by EPA (Regulatory 40 CFR Part 58, Appendix A). Existing field monitoring SOPs have been in use for some time with the most recent complete revision undertaken in 1995. Additional updates to the SOPs are made as needed. Recent additions to the SOPs include the following examples:

- Standard Operating Procedures For the Rupprecht and Patashnick Model 2025 Sequential Sampler (Completed 1999)
- Standard Operating Procedure for R&P Model 1400a TEOM® Continuous PM<sub>10</sub> Monitor (Completed 1998)
- Standard Operating Procedures For the ATEC Model 2200 Toxic Air Sampler (Completed 2002)
- State Continuous Monitors Data Quality Control and Invalidation Criteria (Updated 2002).

## **327.32 Radiological Health**

The Radiological Health program is responsible for protecting and improving the health of Tennessee's citizens through the prevention of radiological conditions that may, in any manner, be a threat to good health, and to treat, through education, enforcement, and remediation, radiologically hazardous conditions that have, or may have, affected the health or environment of Tennesseans.

## **Statutory and Constitutional Objectives**

TCA 68-202-203 creates and maintains a radiological health service, which includes the application of controls and regulations with respect to radiological safety in order to protect the health and well being of people in Tennessee.

## **Mandated and Optional Services and Means of Providing Them**

The program performs as both a regulatory agency and a service organization primarily via three functional areas: (1) Licensing and Registration, (2) Inspection and Enforcement, and (3) Technical Services.

The Licensing and Registration (TCA 68-202-206) sets forth the development of rules and regulations that include requirements and standards regarding the manufacture, use, receipt, possession, storage and disposal of radiation sources; licensing requirements and standards regarding the packaging or containerization, loading of transport vehicles and shipping of radioactive materials to a licensee in Tennessee; requirements and procedures governing application for and issuance, renewal, modification, suspension, revocation or denial of licenses to persons who use, receive, possess, store or dispose of by-product, source and special nuclear materials, and other radioactive sources; and provision for the assessment and collection of fees for processing, issuance, maintenance or modification of licenses as provided in this part.

Applicable controls and regulations are incorporated into licenses. This work is performed by the program pursuant to TCA 68-202-206; the State's Agreement with the U.S. Nuclear Regulatory Commission (NRC), authorized by 68-202-103(b), which has federal legislative authority for control of by-product, source, and special nuclear materials; and applicable State Regulations for Protection Against Radiation (SRPAR).

TCA 68-202-208 requires every person receiving ownership or possession of one or more radiation machines to register with the program within 10 days of such receipt, on forms provided for this purpose. The program performs this X-ray registration work.

Inspection and Enforcement (TCA 68-202-207) requires inspections and examinations of the manufacture, use, receipt, possession, storage and disposal of radiation sources which are subject to the provisions of this part. This work is performed by the program pursuant to: 68-202-207; the State's Agreement, authorized by 68-202-103(b), with the NRC, which has federal legislative authority for control of by-product, source, and special nuclear materials, according to prescribed frequencies; and applicable SRPAR.

In addition, all radiation machines that are required to be registered shall be inspected. This work is performed by program staff under TCA 68-202-503(a) or by qualified (private) individuals (known as Registered Inspectors, or RIs), per TCA 68-202-503(b) and (c), whose services are obtained by registrants. The RIs perform approximately 33% of the required inspections each year; however, the law requires random survey inspections by the Department for quality assurance, and only the Department can enforce applicable SRPAR.

TCA 68-202-215 requires the Department to determine, during the course of conducting inspections of medical radiation machines, if the operator of radiation machines used for medical purposes on human beings is required by law to be certified by any of several listed boards or agencies. To the extent that private individuals inspect applicable medical x-ray equipment, this work is privatized.

Inspection and Enforcement also performs optional inspections upon request. Upon a complaint received in writing from any citizen, the program may inspect any property within its jurisdiction for the presence of dangerous and improperly safeguarded radiation sources.

Federal Mammography Quality Standards Reauthorization Act of 1998, Public Law 105-248, requires annual inspection of mammography facilities. The Department has entered into a fee-for-service contract with the U.S. Department of Health and Human Services, Food and Drug Administration (FDA), for the provision of inspection services for the registered mammography equipment in Tennessee (as included in TCA 68-202-208 and 68-202-503(a), referenced above).

Because the inspections can result in federal enforcement actions, FDA does not contract for this work with other than state agencies.

Technical Services (TCA 68-202-206) authorizes the promulgation of rules and regulations as are required elsewhere in this part, or are otherwise necessary or desirable to implement the provisions of this part.

TCA 68-202-701 requires Tennessee to become a party to the Southeast Interstate Low-level Radioactive Waste Compact in accordance with the terms of the compact, which specifies the rights and obligations of the party States. The commissioners to the compact are appointed by the Governor and, at his discretion, may be either private individuals or state employees. The information, etc., required in support of the compact activities, is more efficiently/effectively provided by the program than it could be by private individuals or entities; privatization of this aspect would require the program's provision of reports, data, etc. to the private individuals, for pass-through to the compact.

The measurement of radiation and the monitoring and surveillance of the environment for radioactive materials is currently being done by program staff (TCA 68-202-203(a)(5)), and the Department of Health lab is currently doing sample analysis. At least some routine monitoring and surveillance work could, conceivably, be privatized. It is felt that lab analyses of at least some, if not all, collected samples could also be privatized. When required, due to facility bankruptcy and/or abandonment, decontamination and decommissioning (D & D) is performed. This is privatized via state request for proposal (RFP) procedures, and is supported by facility-posted financial assurance.

Executive Order # 15, dated April 4, 1998, establishes the Tennessee Emergency Management Agency as the agency of state government having responsibility and authority for disaster planning, emergency preparedness, and directing response and recovery (including accidents at fixed nuclear facilities or involving the transportation of radiological materials). In support of this effort, program staff perform planning and training for response to radiation emergency situations and incidents, and for participation in response plan exercises.

General Operations: The requirement of reporting unexpected or otherwise unplanned incidents of excessive exposure as the rules and regulations may direct, and to take such immediate steps as may be necessary to cope with the resultant hazards (TCA 68-202-203(a)(5)) is a required service.

General Operations optional service: The dissemination of information including: concepts regarding establishing a radiation safety program; current information which would assist facilities to run better, safer programs, including improved security, involving radiation sources; interpretations of regulations; etc. is an optional service (TCA 68-202-203(1)). Since the program prepares the information to be disseminated, and the lists of persons to whom specific information is to be disseminated, the actual dissemination is more effectively and efficiently handled by the program than it could be by privatization.

## **Performance Standards**

1. Issue license applications, amendment requests, and registrations/certified registrations of radiation producing machines, within applicable timeframes as established by State Regulations for Protection Against Radiation (SRPAR).

2. Perform inspections of radiation machine and radioactive materials facilities, as required by TCA 68-202-503(a), applicable SRPAR, and Division procedures.
3. Perform radiological environmental monitoring at targeted sites to ensure public health and safety from radiological releases.
4. Provide timely and appropriate response to all reported radiation incidents.

### **Performance Measures**

1. Percent of license applications, amendment requests, and registration/certified registration requests processed within applicable timeframes.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	97%	98%

2. Number of inspections of radiation machines (tubes) and radioactive materials licenses to be performed annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,900	1,950	2,000

3. Number of radiological environmental sample collection site assessments to be performed annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
60	60	60

4. Percent of reported radiation incidents that are adequately investigated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

Some x-ray registrants, who in previous years had elected to have inspections performed by Registered Inspectors (RIs), change their plans without notice to the program. When that happens, the responsibility for performance of the required inspection reverts to the program, which must then schedule and perform an inspection by state personnel on a rush basis. The usually unavoidable consequence is that the inspection is overdue when performed.

### **Means of Overcoming Obstacles**

Policy/procedures will be developed, to be followed by the promulgation of regulations, requiring RIs or registrants to report to the program regarding the performance of, or the intent to utilize, an inspection by a RI. This will allow for inspections, which were not initially planned, to be scheduled and performed on a more timely basis.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program currently maximizes the federal revenue it receives from the Food and Drug Administration (FDA), and its federally funded inter-departmental contract with TEMA.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The program avoids unnecessary costs and expenditures by planning necessary travel, including inspection trips, environmental sampling trips, etc., in order to maximize numbers of activities and minimize travel costs.

## **Future Challenges and Opportunities**

The program faces ever-increasing numbers of both licensees and registrants, and increasing complexity in license applications and resulting license conditions (requirements). This has the potential to impact and increase the workload throughout this program.

## **Performance Data Schedule**

Quarterly reporting relative to the program's performance measures will be possible by the end of the month following each calendar quarter, and fiscal year data relative to program activities completed during the fiscal year should be available no later than two months past the end of any fiscal year, or by September 1.

## **Data Verification**

The program's listed performance standards all relate to numbers or percentages of activities which are either simply measurable, or are measurable with qualifiers. For performance standard 1 (the percent of applications for radioactive material licenses processed within State Regulations for Protection Against Radiation timeframes), a specific manually completed program document tracks the review and issuance/denial of issuance process, in order that the program has the required data by which it is able to comply with applicable accountability requirements. The data relative to the different performance standards is collected, analyzed, and reported in various ways, including both manual and electronic record keeping.

## **327.33 Community Assistance**

The Community Assistance program provides environmental multimedia training, and financial and technical assistance to promote pollution prevention, reuse, and recycling, and supports economic and community development. In addition, the program provides support for the Wastewater Financing Board and the Utility Management Review Board. The Fleming Training Center in Murfreesboro is responsible for the technical training and licensing of water and wastewater treatment plant operators.

## **Statutory and Constitutional Objectives**

Section 507 of Title V of the federal *Clean Air Act Amendments of 1990* requires each State to establish a Small Business Assistance Program through their Air Quality State Implementation Plan (SIP). In addition, the Federal Small Business Regulatory Enforcement Fairness Act (SBREFA)[(Section 213)(b)] states that each agency regulating the activities of small entities shall establish a program for responding to inquiries on regulatory compliance information.

TCA 68-212-205, the hazardous waste remedial action fund, allows fund use for free, voluntary, confidential, on-site technical assistance to hazardous waste generators and training sessions/workshops targeted toward specific segments of industry and business in Tennessee to address hazardous waste reduction measures.

TCA 69-21-302, the Hazardous Waste Reduction Act requires small quantity generators to develop a waste reduction plan and the state to provide a program of planning and technical assistance.

TCA 68-221-1001 authorizes the a program for loans to local governments to plan, design, and construct wastewater facilities to facilitate statewide compliance with State and federal water quality standards and protect public health.

TCA 68-221-1201 authorizes a program for loans to local governments to plan, design, and construct water facilities to facilitate compliance with State and federal drinking water standards and protect public health.

The Waterworks Construction Loan Act of 1974 authorizes the state to make loans to local governments for the construction of waterworks (TCA 68-221-501).

TCA 7-82-701 created the Utility Management Review Board (UMRB), which hears cases and makes recommendations to ensure that financially distressed utility districts return to financial compliance. The Wastewater Facilities Act of 1987 (TCA 68-221-1001) created the Water Wastewater Financing Board (WWFB), which is empowered to effect reasonable user rates and system efficiencies to ensure the financial integrity and viability of public water and wastewater systems.

The Tennessee Environmental Health Act (TCA 68-221-901) requires the correct operation of water and wastewater systems for the protection of the public health and the quality of the environment, in order to prevent inadequate operation of all such systems through a system of certification of operators and penalties for noncompliance.

## **Mandated and Optional Services and Means of Providing Them**

The small business environmental assistance service provides free, voluntary, confidential, on-site technical assistance to hazardous waste generators and training sessions/workshops targeted toward specific segments of industry and business in Tennessee to address hazardous waste reduction measures (TCA 68-212-205). In addition, this mandated service provides planning and technical assistance (TCA 68-212-302).



This state revolving fund loans mandated service reviews all Clean Water State Revolving Fund (CWSRF) projects for compliance with applicable state and federal laws and regulations to the implementation of the environmental review process for wastewater projects; and reviews all Drinking Water SRF projects for compliance with applicable federal and state acts related to the implementation of the environmental review process for water projects.

The EPA Operating Agreements establishes the contractual agreement concerning how the Department will administer the Clean Water and Drinking Water SRF loan programs. The program is responsible for administering the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) loan programs (40 CFR Parts 9 and 35).

This service provides expertise to distressed municipalities, utility boards, and utility districts that have been referred by the Comptrollers Office to help them achieve financial compliance in accordance with Tennessee laws (TCA 68-221-1001 and TCA 7-82-701).

Water and wastewater operator certification and operator training service is mandated by TCA 68-221-901. This Fleming Training Center service conducts and tracks the certification and continuing education status of approximately 4,800 certified operators and review and track the 800 applications for examination. Approximately 1,900 students take operator-training classes annually, which encompass various topics of interest to persons involved in the fields of water and wastewater.

Water and wastewater technical assistance service is optional. This technical assistance is provided by the instructors to any operator or system experiencing quality control problems or assist in solving compliance problems, aid in resolving customer complaints, and increase water quality and production, and to reduce costs to the facility. Support is provided by telephone and written correspondence.

## **Performance Standards**

1. Provide small business with compliance assistance activities that assists them with their regulatory compliance issues utilizing informational materials and onsite audits.
2. Maintain self-sustaining State Revolving Fund Loan Programs by providing low-cost loans for infrastructure projects that will bring small communities into compliance with permits and protect public health.
3. Provide training for water operators of small water systems to aid them in complying with testing, monitoring and regulations.

## **Performance Measures**

1. Number of small business that received environmental permitting and compliance assistance.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
4,000	4,500	5,000

2. Amount of financial assistance provided to small communities under the clean water state revolving loan program and the drinking water state revolving loan program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$10,100,000	\$11,000,000	\$12,000,000

3. Number of small water systems operators that receive training.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not available	300	350

### **Obstacles to Meeting Objectives and Delivering Services**

Travel restrictions due to lack of federal funds have hampered the ability to obtain training for staff. Most regulatory programs have federal funding requirements to attend meetings and training programs. The small business assistance does not receive federal funds and therefore does not have the requirement. The knowledge base needed by staff is equal to staff positions in the regulatory programs. Travel limitations have impacted the training and ability to provide services in all areas of the state.

The program staff need training that is offered by the American Water Works Association and Water Environment Federation for those persons involved in the water and wastewater industry. These conferences offer the latest technology in water treatment and would enable staff to incorporate these ideas and concepts into their classes.

### **Means of Overcoming Obstacles**

Program staff will partner with sector associations to disseminate information. Additionally, program staff will track the development of regulations and continue to utilize federally funded and conducted training programs. Staff will consolidate training programs and hold in a central location rather than in local areas as well as utilize electronic communication.

Existing staff is training the new personnel in the activities of the center; however, new staff must attend industry training to realize their potential.

### **Means of Maximizing Federal/Non-State Revenues**

The Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) authorize the Department's state revolving loan programs. State funds are required to provide the 20% match to the federal funds. To maximize federal funds, SRF will (1) prepare and submit to EPA an annual IUP and capitalization grant application, and (2) actively pursue all potential CWSRF/DWSRF borrowers from the CWSRF and DWSRF priority ranking lists.

To receive federal funding, each state had to meet or exceed the minimum guidelines for development of an operator certification program requirements. In January 2003, Tennessee applied for and received an EPA grant to provide training and reimbursement opportunities for qualifying operators.

Other revenue sources for this program are the water and wastewater operator fees that apply to certified operators, which were increased in September 2001.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The service will utilize cost effective means of reaching the most people in least financial and resource intensive manner, including: utilizing email, utilizing web page, conducting group meeting/workshops, utilizing association newsletters, providing news releases on new regulations, partnering with other small business associations, and maximizing available federal resources.

The SRF service will implement the suggestions and recommendations generated by state audits, EPA capitalization grant conditions, and the EPA program overviews. SRF staff consistently follows the guidance in the Standard Operating Procedures (SOPs) to be consistent in project reviews and to avoid delays in awarding loans to these projects.

## **Future Challenges and Opportunities**

Changes to the Rules of the State Revolving Fund will be required because of (1) the Judicial Settlement Agreement between the Department and the Chancery Court of Davidson County, and (2) the encouragement from EPA for the implementation of changes. These changes will require revisions to Standard Operating Procedures (SOPs) for both CWSRF and DWSRF. The program also needs to revise and promulgate the CWSRF Priority Ranking System Rules (Chapter 1200-22-01) as required by the EPA's 104(b)(3) Grant.

## **Performance Data Schedule**

Small Business Environmental Assistance performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

State Revolving Fund Loans performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

The Fleming Training Center, because most processes function on a six-month cycle, will report twice annually. Reports will be released on a semi-annual basis, the last calendar day of January and July.

## **Data Verification**

Small Business Environmental Assistance program staff will track compliance assistance efforts utilizing an in-house data collection program, quarterly summaries of program activities will be prepared and a year-end summary will be provided. Currently the program reports quarterly summaries for the Department, annually for EPA and the Air Pollution Control Board.

On an annual basis financial and statistical information about the revolving funds is released to the National Information Management System (NIMS). On a quarterly basis financial information is compiled and release to EPA as to the activity of the revolving funds.

The Director of the Fleming Training Center and the Director of the Division of Community Assistance verify the data released on the performance standard 3. The data is collected, entered, and tracked by the certification program staff, using a custom developed tracking system in a standardized format.

Data is entered into the tracking system upon initial contact and records are modified and then tracked as status changes. Reports generated reflect the status on the date of the report. This data is only attainable from the custom designed tracking system developed for this activity.

### **327.34 Water Pollution Control**

The Division of Water Pollution Control (WPC) is responsible for protecting the state's waters through a program of water quality planning, monitoring and assessment, and regulation. The Division also has specific responsibilities in the area of mining enforcement and reclamation.

The Division's mandated activities include: Water Quality Planning and Assessment, Watershed Management, Permitting, Enforcement and Compliance, and Mine Land Reclamation.

### **Statutory and Constitutional Objectives**

TCA 69-1-101 requires the issuance of permits for any activity that has or is likely to have the effect of impairing or obstructing the navigability of any stream, lake, or watercourse within the state which has been adjudicated and held to be navigable in a technical or legal sense. This law requires the Department to issue permits for activities that could effect navigation in Reelfoot Lake. Permitting is handled by staff in the Natural Resources Section.

TCA 69-3-101 et seq., the Tennessee Water Quality Control Act, requires the Division to secure, protect and preserve the rights of all Tennessee citizens to unpolluted waters.

TCA 69-3-102(c) states that an additional function of the Water Quality Control Act "...is to enable the state to qualify for full participation in the national pollutant discharge elimination system (permit program) established under 402 of the Federal Water Pollution Control Act, Public Law 92-500." The Division is authorized to administer the wastewater discharge permit program under the Federal Clean Water Act.

TCA 69-3-105(a)(1) creates the Tennessee Water Quality Control Board with the power, duty, and responsibility to establish and adopt standards of quality for all waters of the state, and hear appeals of actions taken by the Division. This board also serves the Division of Water Supply.

TCA 69-3-108 mandates that "Every person who is or is planning to carry on any of the activities outlined in subsection (b)....shall file an application for a permit with the Commissioner or, when necessary, for modification of such person's existing permit."

TCA 69-3-109 and 69-3-110 identify the conditions and procedures for initiating enforcement action under the provisions of the Water Quality Control Act. The Federal Clean Water Act and the Memorandum of Agreement with EPA require the Division of Water Pollution Control to receive, review, and enter discharge monitoring data into the federal database called the Permit Compliance System (PCS).

TCA 69-3-107 (11) requires the Commissioner to “Be the administrative agent for the board .... to carry out the provisions of this part;”

TCA 69-3-107 (17) and TCA 69-3-123 through 69-3-129 mandate the requirements for enforcement of the national wastewater pre-treatment program.

TCA 69-3-107 (8) authorizes the Commissioner to “Apply for, accept, administer, and utilize loans and grants from the federal government, state government, and from any other sources, public or private, for prevention, abatement, and control of pollution of the waters of the state. The Department is the water quality control agency for the state for the purpose of any federal water pollution control act;”

Section 401 of the Federal Clean Water Act requires the state to review and certify permits proposed for issuance by the U.S. Army Corps of Engineers under section 404, the dredge and fill permits, before issuance, in order to insure that state water quality standards are met.

TCA 59-8-324 sets out the state’s powers to acquire and reclaim land disturbed by past mining.

The Federal Clean Water Act sets out additional requirements for all the states which the Division implements through its rules and regulations 1200-4-1 through 1200-4-13.

Section 303(c)(1) of the Federal Clean Water Act states “The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once every 3 year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. These triennial reviews of water quality standards are subject to EPA review and approval.

The Federal Clean Water Act requires all states to develop TMDLs for waters impaired by pollutants. A TMDL is to be developed for each pollutant of concern within each impacted water body. Over the past decade, EPA has been repeatedly and successfully sued by environmental organizations and law firms over the issue of TMDL development in the respective states. EPA Region IV was sued by the Southern Environmental Law Center and other Tennessee parties, and entered into a Consent Decree on May 10, 2001. The decree requires the Division of Water Pollution Control to develop a specific number of TMDLs within a 10-year period. If the Division does not produce the TMDLs, EPA will be required to fulfill the consent decree obligations and develop allocations that control Tennessee dischargers.

## **Mandated and Optional Services and Means of Providing Them**

TCA 69-3-105 mandates that all waters of the state must be classified for reasonable and necessary uses, including the establishment of standards of quality for all waters. Such standards shall be adopted, amended or revised by means of a public hearing process that allows citizen involvement in the standards setting process. Additionally, monitoring, surveys, research and compliance investigations shall be conducted by the Division.

TCA 69-3-108 establishes the conditions under which a permit is required in order to conduct specific activities involving the discharge of wastewater to waters of the state. Activities impacting state waters are prohibited unless carried out in accordance with a permit.

TCA 69-3-110 mandates the procedures to be followed for conducting hearings or contested cases in accordance with the Uniform Administrative Procedures Act (UAPA TCA 4-5-3). Appeals of orders of the TDEC Commissioner must be resolved in accordance with the procedures outlined in the UAPA.

As mandated by TCA 69-3-107 (10), the Division reviews plans and specifications, primarily of municipal wastewater facilities, to assure that they are properly designed. No such system may be constructed unless approved by the Division.

Stream use classifications and water quality standards are developed and presented for public consideration every three years, per federal requirements. Water quality data are compiled and assessed for development of the federally required 305(b) Report and 303(d) List of Impaired Waters. These documents are required to be developed and sent to EPA by April 1 of each even-numbered year. If the documents are not developed and provided in a timely manner, EPA may withhold grant funds to the state until they are provided. Tennessee receives over \$2 million per year in federal grant funds for protection of the waters of Tennessee. In addition, the progress made on the reports and standards development processes is to be reported to EPA on an annual basis. EPA will not award grants to states that have not produced and submitted an annual status report by April 1 of each year.

The Division's watershed management section has responsibility to complete total maximum daily loads (TMDLs). They must produce a minimum of 40 TMDLs each year for the first five years of the consent decree. During the last five years, the Division must produce approximately 125 TMDLs per year.

The Division investigates complaints, tracks compliance, and develops enforcement cases as warranted against those entities found to be in violation of permit conditions or provisions of the act. This is accomplished with assistance from staff in the Office of General Counsel. If a matter is appealed to the courts, the Division is represented by the Attorney General's office.

Under the agreement with EPA, the Division must take timely and appropriate action against dischargers determined to be in significant non-compliance with the terms and conditions of their permit, in order to return them to compliance.

The Division must perform inspections of facilities permitted under the national wastewater discharge program, NPDES.

The Division must respond to formal complaints per TCA 69-3-118(a).

The Division must assess monitoring results from permitted facilities. For those using private laboratories or use their own labs for sample reporting, an annual quality assurance and quality control check must be performed. This involves the analysis of an unknown set of parameters, which the laboratory must be able to detect and quantify within a set level of accuracy.

Annual pre-treatment inspections are required at all approved municipal facilities, in accordance with the State/EPA Memorandum of Agreement. A combination of central office and field staff plan and implement an inspection schedule each year to insure that 100% of the facilities are inspected for compliance with federal regulations.

## Performance Standards

The desired performance standard for all activities in the Division is 100% completion of all program activities within established time frames.

1. Produce a minimum of 40 Total Maximum Daily Loads (TMDLs) per the Consent Decree.
2. Collect water quality data at 1,500 sites annually.
3. Issue individual wastewater permits.
4. Issue Aquatic Resource Alteration Permits (ARAPs).
5. Issue Commissioner's Orders for violations of the Tennessee Water Quality Control Act.
6. Reclaim mine sites.

## Performance Measures

1. Number of TMDLs developed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
40	40	40

2. Number of sites monitored where water quality data is collected.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,400	1,500	1,500

3. Number of individual wastewater permits issued.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
355	526	420

4. Number of Individual and general ARAPs issued.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,200	1,200	1,200

5. Number of Commissioner Orders issued.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
440	215	215

6. Number of sites reclaimed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
4-8	4-8	4-8

## **Obstacles to Meeting Objectives and Delivering Services**

Increased federal program requirements, such as the expanded storm water program, result in having a broader universe of regulated entities than before, with little or no increased federal support.

The Division implemented a five-year rotating cycle for data collection, assessment, and public participation for the entire state in 1996. The process is called the Watershed Cycle. Although data collection is on a five-year cycle, EPA and Congress still require statewide reports to be developed every two years. This schedule makes it difficult to report changes in water quality, since in many cases, the Division is reporting on the same data in separate reporting periods.

For TMDL development, the Division should be able to meet the objectives for the next three years. However, beginning in FY2006, the number of required TMDLs jumps to approximately 125 per year. This tripling of outputs will require new methods or efficiencies.

Staff training and retention are major factors in continued program effectiveness and efficiency.

## **Means of Overcoming Obstacles**

The Division is working with other state agencies to identify common areas of concern, such as the Tennessee Department of Agriculture (TDA), Tennessee Wildlife Resources Agency (TWRA), or federal agencies such as USGS, Corps of Engineers, TVA or NRCS.

The demand for high quality data in larger amounts can be met through the use of automated sampling equipment that can be deployed 24-hours a day, for weeks at a time. The Division has started acquiring such equipment, and could use more. Staff time and travel costs can be saved via the use of automated equipment.

A significant increase in resources will be required in order to triple the output of TMDLs in FY 2006 and following years. The Division has had significant success working with EPA and their consultants in this area and will need to continue to look for ways to mass-produce these recovery plans.

Office automation of many routine processes has led to efficiencies in several program areas. Computerization of data management, permit development and report production have greatly increased staff efficiency. The Division developed and implemented most of the information gathering and sharing capabilities internally. The Division has asked the Information Systems Division for help in developing a shared database that staff in field offices can access and update in a timely manner. The Division has made good progress in developing its system for electronic reporting of monitoring data from dischargers.

Training can help overcome some of the identified obstacles. It is essential that staff be allowed to keep up to date on the latest procedures and methodologies being implemented by EPA and neighboring states. This can be accomplished by attending EPA-sponsored classes, such as permit training and the Water Quality Standards Academy.



## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Approximately \$2.2 million in federal funding was available to the Division in FY 2002 for support of water quality management, planning and implementation activities. EPA specifically earmarks these funds for water pollution control activities of the state. The Division makes sure to fully utilize all federal funds within the year in which they are awarded.

The Division received approximately \$1.1 million in federal funds from the Office of Surface Mining for support of land reclamation activities in Tennessee. Likewise, the Division sees that full use is made of these funds.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Automatic water quality monitoring probes for collection of routine data provides real savings. These devices are extremely cost effective since they can be deployed and left to continually monitor water quality conditions 24 hours a day for weeks or months at a time. This saves sending sampling teams to collect such data, thus reducing travel, labor and laboratory costs.

The Division routinely uses data from the Tennessee Valley Authority, Environmental Protection Agency, Natural Resources Conservation Service, US Geological Survey, Tennessee Wildlife Resource Agency, permit holders, state colleges and universities, and citizen groups in preparing water quality assessments. Better coordination and access methodologies would help make best and most timely use of this information.

Office automation of the permitting process has been instrumental in providing efficiencies to this program. Additional savings would be available if greater information sharing was possible between the central office permit writers and field staff in the eight field offices.

## **Future Challenges and Opportunities**

With Tennessee's position as one of the fastest growing states in the nation, the Division should anticipate increased development pressures. There will be increased water usage at the same time much of the infrastructure for municipal waste treatment systems continues to age. Competition for finite water resources will continue to increase. Some streams will reach their maximum capacity for discharges or withdrawals. Careful coordination and planning involving all levels of government, new ideas from universities and private sector, and an effective outreach program to citizens will be needed to meet these challenges.

More stringent national standards for industries and municipalities, and an expanded universe of regulated entities, can be anticipated. New concerns with water pollutants, maybe pharmaceuticals or genetic modifiers, will drive new areas of monitoring and perhaps regulation.

EPA continues to require more stringent conditions on the data collected for reporting purposes. Data entered into the national STORET system must meet specific requirements for quality assurance and quality control. The Division must continue to demonstrate good science in order to produce good data.

Some information management efficiency can be gained through a web-based approach for providing faster service and easier information dissemination. At the present time, capabilities in this area are limited.

The Division needs additional computer data systems that will allow laboratory data to be keyed once and then shared with other agencies, including transfer of data to the federal STORET (Storage and Retrieval) system. Also, the Division needs to implement an electronic document management (in lieu of paper) filing system. This not only eliminates lost and/or misfiled documents from existing paper filing system, it also makes locating documents and transmitting copies electronically a much faster and more dependable operation.

Plans review and approval of new systems may need to be more innovative in future years. Infrastructure needs are now problematic in many of the municipalities. Many collection systems need to be rehabilitated or replaced. With other demands placed on municipalities, these projects are often delayed due to other priorities.

Considerable savings are available to both the Department and regulated community through local authorization of certain regulatory activities. For example, wastewater plans approval may be delegated to municipalities. Also, the Division intends to allow construction stormwater to be regulated by local stormwater programs.

Citizen interest places a welcome but increasing demand on program resources. The Division is doing twice as many public hearings today as compared to five years ago. The Division needs to continue to develop meaningful ways for Tennesseans to understand and participate in their environmental management programs.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

Data verification is essential to the program's functions. All monitoring activities are planned in advance of data collection. Appropriate QA/QC methodologies are followed in data collection, handling and transport, analysis, and data storage. EPA routinely inspects the state's laboratory facilities to insure that standard methods are being followed and proper quality controls are implemented. Any questionable data results are double checked with laboratory personnel, who must confirm accuracy of the data. Any data that do not meet these standards of quality are deleted from the database.

Permit status data for NPDES, State Operating Permits and ARAP is provided via a tracking system developed by Division staff for in-house use. The system, referred to as PERMSTAT, is capable of reporting the current status of all permits in various stages of development. Additionally, electronic copies of permits and rationale documents are available for staff review, transmittal to field office locations, and use in permit issuance, re-issuance, and information verification. The system manager regulates read/read-write access to the system, in order to help maintain data integrity of the system.

Compliance data is managed on the national PCS database, and enforcement schedules are tracked with a local database.

For TMDL development, data verification can be obtained by contacting the watershed manager of the Division of Water Pollution Control. Additionally, information concerning the number of EPA approved TMDLs can be obtained by visiting the “EPA.gov” website.

### **327.35 Solid Waste Management**

The solid waste management program has the responsibility for developing, implementing, and enforcing regulations relevant to solid waste and hazardous waste management and has the authorization to administer the lead hazard program in Tennessee in lieu of U.S. Environmental Protection Agency (EPA).

### **Statutory and Constitutional Objectives**

Pursuant to TCA 68-211-102, the Department develops and implements an inspection program for all permitted facilities. In addition, the Department shall exercise general supervision over the construction of solid waste processing facilities and disposal facilities (TCA 68-211-105) as well as exercising general supervision over the operation and maintenance of solid waste processing facilities and disposal facilities or sites (TCA 68-211-107). The Department has established a program for the certification of Class I landfill operators (TCA 68-211-853).

The Tennessee Hazardous Waste Management Act (TCA 68-212-101 et. seq.) and regulations require the Department to regulate the generation, storage, transportation, treatment and disposal of hazardous wastes. Pursuant to U.S.C.A. 6901 to 6992k, the U.S. Environmental Protection Agency’s (EPA) Resource Conservation and Recovery Act (RCRA) Subtitle C program regulates hazardous waste nationally. RCRA’s objective is to safely manage hazardous waste “from the cradle to the grave.” Because Tennessee’s law and regulations are equivalent to or more stringent than the federal requirements, EPA has authorized Tennessee to implement the state’s hazardous waste program in-lieu of the federal program.

Tennessee Lead-based Paint Abatement Certification Act (TCA 68-131-401 et seq.) requires the Department to establish a program for the certification of lead abatement professionals and their work. This program complies with the federal requirements for accreditation, certification, work practice standards and enforcement.

### **Mandated and Optional Services and Means of Providing Them**

The program is required to provide for the safe and sanitary processing and disposal of solid wastes (TCA 68-211-102), and in concert and by statute (TCA 68-211-104) makes illegal the transportation, processing, or disposal of solid wastes not explicitly authorized by the Department. This mandated service is delegated to the Commissioner by statute and, as such, cannot be transferred or conferred on a private entity.

While the actual training of landfill operators may be contracted or privatized, the Department would receive minimal cost benefit as statutory obligations remain with the Department to establish specific training requirements and issue, suspend, or revoke operator's certification.

This program regulates hazardous waste management in order to protect the public health, safety and welfare, to prevent degradation of the environment, conserve natural resources, and to provide a coordinated statewide hazardous waste management program (TCA 68-212-101).

This service includes the following activities in meeting and maintaining the program objectives: issuance of annual permits to transporters who pickup or deliver hazardous waste in Tennessee; issuance of permits to active facilities that treat, store, or dispose of hazardous waste; inspections of hazardous waste generators and treatment, storage, and disposal facilities (TSDFs) to ensure that they are in compliance with their permits; and oversee the corrective action program.

The State Remediation Program (SRP) is a voluntary program that utilizes alternate State authorities to oversee the investigation, remediation and closure of facilities that are not required to enter the State's permitting process. Sites include hazardous waste sites not having RCRA permit, old solid waste dump sites, unregulated petroleum contaminated sites, chemical underground storage tanks, and Brownfield voluntary cleanup sites.

The program is required by TCA 68-131-401 to certify individuals in seven lead-based paint abatement activities. Training providers are accredited by the program to ensure that the lead-based paint professionals are well trained according to specific requirements. Compliance with the state's regulations is monitored by the program conducting target inspections of abatement projects and site audits of training courses.

Optional services are provided under contract to the Department of Health through federal funding by the Centers for Disease Control (CDC). Services provided include the investigation of all sources of exposure to lead poisoned children and the recommendation of options to reduce/eliminate the exposure. Primary intervention is also conducted to identify and remove the risk before a child is poisoned.

## **Performance Standards**

1. Inspect permitted solid waste facilities at a frequency necessary to maintain compliance and meet statutory mandates.
2. Protect human health and the environment by conducting hazardous waste generator and treatment, storage, and disposal facilities (TSDFs) inspections and follow-up inspections at the percentage of facilities agreed upon in the annual EPA Work Plan.
3. Protect human health and the environment by ensuring that all of the hazardous waste cleanups under HSWA Corrective Action are being conducted as approved and in a timely fashion.  
[The annual RCRA Subtitle C Grant Work Plan establishes the steps needed to successfully move each facility through the corrective action process toward site remediation or final remedy.]
4. For large-scale, multi-family complexes where there is a contract for lead-based paint abatement, conduct a state inspection as established by Federal mandates of these projects to determine compliance with the state regulatory work-practice standards.

## Performance Measures

1. Percent of permitted solid waste facility inspections that have been conducted.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
90%	95%	98%

2. Percent of hazardous waste generator and TSDF inspections conducted in accordance with the annual EPA Work Plan, which sets the annual number of inspections.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

3. Percent of Corrective Actions commitments completed in accordance with the annual EPA Work Plan.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

4. Percent of lead-based paint abatement inspections conducted.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
20%	22%	25%

## Obstacles to Meeting Objectives and Delivering Services

Illegal dumping continues to be a problem in Tennessee. The program has a limited number of inspectors to monitor a large number of rural back-roads and an ever-increasing population. The illegal dumping problem will not likely be solved using only the enforcement powers of the program. This would be resource intensive in order to attempt to resolve the problem across the state.

Due to the complexity of hazardous waste, it takes from one to two years before new employees become fully productive. Training new employees is difficult because most training is provided by EPA and the courses are usually held in Atlanta.

Failure to expend the approved federal lead hazard grant dollars annually, could lead to the loss of future federal funds thereby impacting program staffing and achieving the EPA/TN grant commitments.

## Means of Overcoming Obstacles

The citizens of Tennessee should be provided convenient access to solid waste disposal. These centers enable rural residents to dispose of their waste at a location near them and encourage them to properly dispose of waste. The most effective approach to assure proper disposal is the establishment of local litter officers with citation authority to inspect roadside dumps and cite individuals with trash illegally dumped. Regional litter officer staff could provide coverage for several counties with random investigations.

Hazardous Waste will develop a streamlined approval process for travel to Atlanta in order to attend EPA training courses.

Lead Hazard is proposing an expansion budget to secure additional staffing and equipment already funded by federal grant dollars. Current staffing constraints will be overcome by contracting with local universities to conduct two specific grant objectives.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Solid Waste does not receive any federal funding.

Hazardous Waste receives an EPA grant to operate the state's program in-lieu of the RCRA Subtitle C program. The annual work plan negotiated between the agencies defines the activities that are eligible for grant funding. The minimum grant match is at the ratio of 75% federal funds to 25% state funds. The program's EPF fee revenues are used to provide the state match. The EPA grant has remained constant for a number of years.

The only new federal grant funds have been for the Corrective Action program as new federal initiatives have increased the workload in that segment of the program. Grant funds for each state are allocated on a formula basis and there are no discretionary grant funds available for this program at this time. The program also receives some federal funds as cost reimbursement for Corrective Action work conducted at U.S. Department of Defense facilities. Time sheets are used to document time spent on these programs to insure that all eligible costs are recovered.

Lead Hazard is funded 100% by EPA federal grant dollars. Fees collected for certification and accreditation are considered program income and claimed by EPA each year. Historically, the program has always received the level of funding requested. EPA maintains that a state's continued failure to spend funds granted could result in decreased funding.

Activities conducted under contract to the Department of Health are also federally funded by the CDC and will now last for three years beginning with FY 2002-2003 to FY 2005-2006 at a level of approximately \$125,000 annually.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Hazardous waste management maintains full federal program authorization to prevent dual regulation of industry by the state and EPA. This program maximizes training opportunities and avoids tuition charges for training by using EPA training courses to the greatest extent possible.

The program conducts annual training courses for hazardous waste generators and TSDF's to promote compliance and reduce costly enforcement cases. In addition, the program hosts the Annual Solid Waste Conference that allows an interchange between regulators and stakeholders.

## **Future Challenges and Opportunities**

The most effective program in reducing solid waste program cost is the promotion of recycling efforts that reduce the volume of waste.

Corrective action sites are usually large facilities with numerous solid waste management units (SWMUs). The program cannot get a corrective action complete designation for a facility until all of these SWMUS are investigated and corrective action remedies are in place. The program is currently instituting the RCRA Corrective Action Reforms by developing a Facility Action Plan for certain facilities. This can streamline the process and get facilities into final remedies more quickly. Working with financially troubled facilities that are in the corrective action process is a challenge.

Lead Hazard must stay abreast of new federal policy, guidance and regulations and participate in dialogues that potentially impact the state program. The state regulations will change to coincide with the federal regulations relative to steel structures, public buildings, renovation/remodeling and lead debris.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

Solid Waste data supporting performance standard is entered directly from documents received by the program. All these documents are placed in central files.

HWMP facility and permitting, inspections, and compliance activity data is maintained in EPA's RCRA Info database. The program staff enters data as they complete prescribed activities. The corresponding reports and forms are kept in the central files. Central office personnel run reports and verify activities have been completed. EPA in their oversight role verifies data and conducts an annual review of program accomplishments.

The Lead Hazard program collects information from all inspections, audits, enforcements, notifications, fees, certifications and accreditations manually. Program personnel enter this data into a database that stores information specific to each activity. Staff and auditing authority can retrieve data manually or through the database with proper security access permission.

## **327.36 DOE Oversight**

DOE Oversight Division coordinates the Department and various state agencies with regard to environmental compliance, environmental restoration, waste management, health studies, and public awareness activities on the Oak Ridge Reservation. The U.S. Department of Energy

(USDOE) and the State of Tennessee, in a spirit of partnership and cooperation, have agreed to find ways to achieve clean air, water and land in concert with sustainable economic growth.

## **Statutory and Constitutional Objectives**

Tennessee Code Annotated 68-212-201 *et. seq.*, authorizes the state to enter into an agreement with the USDOE. The resultant Tennessee Oversight Agreement assures the citizens of Tennessee that their health, safety and environment are being protected through existing programs and substantial new commitments by USDOE. Through a program of independent monitoring and oversight, the state will advise and assist to assure that USDOE's activities do not adversely impact public health, safety and the environment. This includes radioactive materials management, which is exempted by the Atomic Energy Act from external regulation.

Section 121 (f) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides statutory direction for state involvement in the CERCLA process and requires formal cooperation with the U.S. Environmental Protection Agency (USEPA). In the case of the Oak Ridge Reservation, the Federal Facility Agreement provides the framework to remove the reservation from the national priority list or else provide perpetual institutional controls.

Section 3021(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6939(c), as amended by the Federal Facility Compliance Act, and Tennessee Code Annotated Section 68-212-111, requires the Department of Energy to comply with a plan for treatment of land disposal restricted mixed waste (Site Treatment Plan). Mixed wastes contain both radioactive and hazardous constituents. The State of Tennessee reviews, approves, modifies, or disapproves documents developed under this plan. When all mixed wastes are found to be in compliance and the backlog of stored mixed waste are treated, the plan will be completed.

## **Mandated and Optional Services and Means of Providing Them**

The Tennessee Oversight Agreement service provides comprehensive and integrated monitoring and surveillance for all media (i.e., air, surface water, soil, sediments, groundwater, drinking water, food crops, fish and wildlife, and biological systems). The emissions of any pollutants (hazardous, toxic, chemical, radiological) from USDOE operations on the Oak Ridge Reservation and surrounding environment are monitored and evaluated. The State is required to provide an annual monitoring work plan to USDOE for review and consultation. Each year the state then provides a summary monitoring report for public distribution on the results, analysis, and oversight activities as a requirement of the agreement.

In accordance with the Federal Facility Agreement, the state will provide oversight of USDOE environmental restoration activities. This oversight is to ensure that the environmental impacts associated with past and present activities at the Oak Ridge Reservation are thoroughly investigated and that appropriate remedial action is taken to protect the public health and welfare and the environment.

The state ensures that clean up activities scheduled within the FFA are carried out as planned through the enforcement, as necessary, of stipulated penalties. The state will participate in and initiate, when necessary, a resolution of dispute process as outlined in the FFA and work with the



parties to resolve disputes as expediently and efficiently as possible. The Division also serves as the state natural resource trustee representative for the Oak Ridge National Priority List site to investigate natural resource injuries and establish damages where necessary and in accordance with the Natural Resource Damage Assessment Act.

The Division serves as state representatives for the Watts Bar Interagency Working Group. This group includes U.S. Army Corps of Engineers, Tennessee Valley Authority, USDOE, USEPA and the State of Tennessee. The function of this group is to evaluate proposed sediment disturbance activities within the Watts Bar reservoir downstream of the USDOE facilities and to make recommendations to the permitting authorities. The purpose is to protect downstream resources and water users from impacts from contaminated sediments in the Watts Bar reservoir.

The Federal Facilities Compliance Act (FFCA) Site Treatment Plan mandates that the Department will promptly review each deliverable submitted by USDOE. Reviews will result in approval, conditional approval, or disapproval of waste characterization packages and treatment schedules. Under disapproval comments are provided back to USDOE for correction of deficiencies.

## Performance Standards

1. Complete all reports on time and in a quality manner as required by the Tennessee Oversight Agreement.
2. Complete all reviews with comment resolution for all Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) investigation, decision, and design documents within 90 days or other agreed timeline.
3. Perform weekly Federal Facility Agreement (FFA) field inspections to monitor the progress of ongoing clean up work and to evaluate the effectiveness of completed clean up activities.
4. Review the deliverables and provide comments according to the Federal Facilities Compliance Act (FFCA) Site Treatment Plan time frame for setting milestones and target dates, reviewing mixed waste inventories annually, and evaluating DOE extension requests and negotiating resulting disputes.

## Performance Measures

1. Number of public and internal reports delivered.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
8	11	11

2. Number of project document reviews in accordance with FFA protocol.  
[These broadly represent contaminated areas undergoing corrective actions.]

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
30	17	20

3. FFA field inspections and environmental monitoring.  
[This assures that remedial actions and/or protective controls are effective pursuant to PM 2.]

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
86	106	110

4. FFCA project document reviews within the Site Treatment Plan required time frame.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
58	52	60

### **Obstacles to Meeting Objectives and Delivering Services**

Federal funding prerogatives and the budget cycle leave many uncertainties about the long-term closure and control of remaining contamination on the Oak Ridge Reservation.

The limited national mixed waste treatment capacity for some waste categories, and current lack of disposal pathway for wastes in need of geological isolation have been major obstacles to achieving scheduled milestones. Extremely long-lived radionuclides may remain in shallow burial resulting in perpetual institutional controls. This will result in perpetual expense.

### **Means of Overcoming Obstacles**

Review and track congressional and USDOE annual budgets in order to assure compliance with milestones and schedules. Maintain awareness and advise the state administration about remaining contamination and associated liabilities.

Review and track USDOE progress in establishing geologic repositories. Constantly identify wastes that, by characteristic, belong in geologic repositories.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Division is 100% federally funded through federal grants. All funds are to be administered exclusively by the state consistent with the provisions of the grants involved. These funds shall not, however, be used by the state for the conduct of such regulatory functions as issuance of permits, determination of non-compliance, and issuance of citations and/or orders.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Work distributions are tracked according to grant and task on computer spreadsheets. Reimbursement from USDOE is done through state fiscal services. FFCA work is reimbursed through an established standard operating procedure. Expenditures are reviewed monthly. The laboratory budget is tracked and a chart on funds remaining is made available monthly to field staff.

## **Future Challenges and Opportunities**

A challenge is to assure that USDOE maintains an adequate environmental management budget to complete clean up activities as scheduled. The Division has demonstrated that its presence is needed in a monitoring and oversight capacity. Future opportunities include a chance to have ever increasing impact on clean up of the environment. Staying abreast of and applying new technologies in the field of environmental clean up, especially in ground-water remediation is important. Develop creative methods to reduce the paper work and simplify decisions made under the CERCLA or other processes to expedite cleanups. This essentially means simplifying the process and focusing more on the product. Future challenges include dwindling budgets, changes in federal administration, and a continuing trend towards limitation of access to information.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter. Some data may be collected more often and used as a management tool internally but still reported on a quarterly basis.

## **Data Verification**

Environmental data are collected and reported according to an annual environmental monitoring plan. The monitoring plan establishes methods, materials, and peer review for all independently performed environmental data collection and reporting. DOE data are reviewed for quality and compared to studies. FFA and FFCA field inspections are coordinated with the monitoring plan to independently verify the effects of DOE environmental projects. Related performance standards are assimilated from trip reports and monthly and quarterly reports.

## **327.37 Abandoned Lands**

The Division of Water Pollution Control (WPC), Land Reclamation Section is responsible for administering the Tennessee Surface Mining Reclamation Fund. The fund is available for reclamation and re-vegetation of land affected by surface mining

The fund is comprised of fees and forfeited bonds from active and inactive mine sites. Because of the limited amount of the fund, only sites that present an extreme danger to public health, safety or welfare are considered for reclamation. Five hundred thousand dollars are appropriated each year and any unexpended balance is carried forward.

## **Statutory and Constitutional Objectives**

TCA 59-8-212 cites that these funds shall be available to the Commissioner for expenditure for reclamation and re-vegetation of land affected by surface mining operations.

## **Mandated and Optional Services and the Best Means of Providing Them**

TCA 59-8-212, 59-8-213, 59-8-214 authorize the Division to reclaim and re-vegetate land affected by surface mining operations by utilizing other agencies, employees or contracts with qualified persons.

### **Performance Standards**

1. Fund reclamation projects in order to eliminate the safety hazards that are posed by abandoned mine sites.

### **Performance Measures**

1. Number of emergency reclamation projects for abandoned mine sites that are reclaimed (implemented on as emergency basis only, due to lack of funds).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
No project in 2003	As Needed	As Needed

### **Obstacles to Meeting Objectives and Delivering Services**

Reclamation costs of one catastrophic event such as a landslide could wipe out the entire balance of the fund (approximately \$850,000 as of May 2003).

### **Means of Overcoming Obstacles**

There is not a means to overcome the stated obstacle.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Use amounts from the reclamation fund to leverage or match other funding sources.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Reclaim and re-vegetate only high priority sites. Use dollars for on-ground reclamation only (no administrative expenses).

### **Future Challenges and Opportunities**

Challenge: Funding all non-coal abandoned mine reclamation needs including health/safety hazards and environmental degradation.

Opportunities: Passage of new non-coal regulatory legislation that includes a funding mechanism for abandoned mine site reclamation.

### **Performance Data Schedule**

In most fiscal years, these funds are not used. Rather, they are returned to the allotment for reallocation in the next fiscal year, in case an emergency arises that cannot be covered by regular reclamation funds budgeted under Water Pollution Control.

### **Data Verification**

Once an emergency situation has been stabilized with corrective measures implemented, an inspection is conducted to verify adequacy of repairs, prior to final payment.

Data tracking is limited to meeting contract requirements and documenting work performed. This information located in the contract file for each specific site when fund dollars are used.

### **327.38 Hazardous Waste Remedial Action Fund**

The Hazardous Waste Remedial Action Fund provides a safety net to address property contaminated by hazardous substances. Without this program, contaminated properties will remain abandoned, underutilized, and pose a threat to health and the environment.

Cleanups at Tennessee's active National Priority List sites, 14 Department of Defense sites, 112 state inactive hazardous substance sites, and more than 80 voluntary cleanup sites are managed in association with the Fund.

Support for the Fund activities comes from state appropriations, from fees paid by generators and transporters of hazardous waste, from cooperative agreements with the Environmental Protection Agency, and from direct support from the Department of Defense for activities at their sites.

Should the annual state appropriation to the fund fall below \$1,000,000, the statute directs lower fees for transporters and generators. This action would result in the loss of more than a million dollars annually in fees.

### **Statutory and Constitutional Objectives**

The Hazardous Waste Management Act of 1983, TCA 68-212-201 et seq., requires a state response program to identify and clean up air, land, and water contaminated by past releases of hazardous substances. In addition, this statute sets out a hazardous waste reduction and pollution prevention program to encourage hazardous waste generators to reduce the volume and toxicity of hazardous waste generated in Tennessee (TCA 68-212-206(f)).

The federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) creates a federal hazardous substance investigation and cleanup program that requires state involvement.

The Small Business Liability Relief and Brownfields Act amended CERCLA and established a national brownfield program with the objective of returning contaminated land to productive use.

The National Pollution Prevention Act of 1990 established a national policy prescribing a hierarchy of pollution prevention and reduction at the source; then environmentally safe recycling, treatment, and disposal or release as a last resort.

### **Mandated and Optional Services and Means of Providing Them**

TCA 68-212-201 et seq. mandates the establishment of a hazardous substance cleanup fund and remediation program. The Act provides for both a regulatory program and a voluntary program to address sites. These programs are housed in the Division of Superfund.

TCA 68-212-205 allows use of the fund to support various activities intended to encourage a reduction in the amount of hazardous waste generated. The Department contracts with the University of Tennessee to provide a free service to Tennessee industry to advise them on techniques to minimize hazardous waste.

### **Performance Standards**

1. Clean up six inactive hazardous substance sites annually.
2. Number of sites with incremental progress toward cleanup.
3. Number of complaints or potential sites investigated.

### **Performance Measures**

1. Number of hazardous substance sites cleaned up where remediation efforts are completed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
8	6	6

2. Number of sites with incremental progress toward cleanup.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
60	65	70

3. Number of complaints or potential sites investigated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
15	10	10

### **Obstacles to Meeting Objectives and Delivering Services**

The federal government is not always willing to address their obligations. These responsibilities include identifying necessary work at Formerly Used Defense Sites (FUDS), at currently used

defense sites, and in providing reasonable support through cooperative agreements to conduct the activities of the program.

The statute establishes a system of apportioned liability for the cost of cleaning up sites. There are often responsible parties at sites that are unable or unwilling to pay their apportioned cost.

Not every citizen is satisfied that his/her vested interest is adequately protected at each site. The statute directs a cleanup decision to balance technological feasibility, cost-effectiveness, the nature of the danger to public health and safety, and the likelihood of a remedy actually working.

### **Means of Overcoming Obstacles**

The Department continues to work with the federal government.

The act recognizes that there will be an orphaned share at sites and provided for that likelihood by annually appropriating at least \$1 million and through the collection of fees. Work must be scheduled to avoid working on too many fund dependent sites at once to avoid draining the state fund.

The Department tries to involve the public in its decisions. Public participation is encouraged through notices in local newspapers of impending decisions and through meetings with impacted citizens.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The United States Department of Defense provides funds to the Department to oversee investigation and cleanup at Formerly Used Defense Sites (FUDS), military sites that are closing, active military bases with cleanup actions, and installations that are closing or realigning under the Base Realignment and Closure Act.

Fees are collected from generators and transporters of hazardous waste.

EPA and the Department annually negotiate cooperative agreements to perform mutually agreed work in Tennessee. The cooperative agreements typically support salaries that otherwise would be drawn from the Fund.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The voluntary cleanup oversight and assistance program provides willing and able responsible parties the opportunity to investigate and clean up inactive hazardous substance sites. Often a voluntary program participant will clean up beyond their apportioned share of the cost and avoid that cost from being paid from the Fund.

The program uses a site-specific competitive bidding process for investigation and cleanup work performed by state contractors. This process allows the state to pay a competitive cost for work performed.

## **Future Challenges and Opportunities**

The federal superfund program is under review and faces an uncertain future. Fees are no longer collected to support that program and cleanups are paid from the Environmental Protection Agency's appropriated funds.

Mega sites such as the Copper Basin cannot be adequately addressed from the state fund should that be required. The fund is capped at \$10 million. A site such as Copper Basin (in southeastern Tennessee) requires in excess of \$100 million.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

Performance for standard 1 is verified by the total number of "Letters of Completion" issued at voluntary sites, by reviewing the list of sites deleted from the list of inactive hazardous substance sites, and by reviewing information available in the program's central office files identifying sites where construction of a remedy is complete.

Performance standard 2 is verified by comparing the list of facilities indicated as showing progress with the information in the program files.

Performance standard 3 is verified by comparing the list of locations identified by the program with evidence of activity in the programs files.

## **327.39 Water Supply**

The water supply program ensures that Tennessee's public water supplies comply with state health standards to protect the users through development of groundwater and wellhead protection plans. It also regulates most of the dams across the state and the drilling of public and private wells.

## **Statutory and Constitutional Objectives**

Under the Safe Drinking Water Act (TCA 68-221-701), the Water Quality Control Board (WQCB) has the responsibility to establish rules and regulations, requirements, or standards governing the source, distribution, purification, treatment and storage of water for public water systems, establishing rules that may include fees, inspections, performing tests and analyses of water samples.



The Tennessee Water Resources Information Act recognizes that in other states the withdrawal of ground water has caused the lowering of the ground water table and that there is potential for ground water or surface water withdrawals to impact water uses in Tennessee. The program is required to institute a system of registration so that adequate information is obtained to document current demand for water and to project growth in that demand (TCA 69-8-303).

The Water Well Act (TCA 69-11-102 et seq.) requires a well driller license for persons drilling or closing water wells, monitor wells and geothermal wells. The act also requires an installer's license for persons installing pumps in wells or water treatment on water wells. All license holders are required to obtain continuing education to renew a license.

The Safe Dams Act regulates the construction, modification, and operation of all dams in Tennessee and requires the program to conduct inspections of existing and proposed dams. The act excludes all dams used as "farm ponds" and any dams owned or operated by the federal government.

Recognizing that correct operation of water and wastewater systems is necessary for the protection of the public health and the quality of the environment, the Water Environmental Health Act (TCA 68-221-901) requires a system of certification of operators and penalties for noncompliance.

Wellhead Protection and Source Water Assessment/Protection for public water system sources and Underground Injection Control are all requirements under the Federal Safe Drinking Water Act. Tennessee statutes governing Wellhead Protection and Source Water Protection are under the Safe Drinking Water Act, TCA 68-221-701 et. seq. The state statute governing Underground Injection Control (UIC) is the Water Quality Control Act (TCA 69-3-101).

The Federal Safe Drinking Water Act, Public Law 93-523, and 40 CFR 142.1-142.313 contain the provisions for the state to attain and retain primacy enforcement responsibility for drinking water laws. The Department has applied for and obtained primacy for drinking water law enforcement in Tennessee.

Federal requirements applicable to the Water Environmental Health Act are contained in the Federal Safe Drinking Water Act (SDWA). To prevent a 20% reduction of the Drinking Water State Revolving Fund Capitalization Grant that fund drinking water projects, the program must continue to enforce provisions regarding the certification of operators of public water treatment and distribution systems.

Pursuant to Section 1422 of the Federal SDWA EPA is required to list states that have an underground injection control program and Tennessee has applied for this delegation. The program is necessary to assure that underground injection will not endanger drinking water sources.

### **Mandated and Optional Services and Means of Providing Them**

TCA 68-221-701 et seq. the state is required to establish a drinking water program that protects the public health of users of public water systems. The program is required to oversee the design, construction, operation and maintenance of public water systems through training, technical assistance, inspections, engineering reviews, compliance determinations, and timely enforcement. Effort will be made to provide the training, technical assistance and compliance workshops for

public water suppliers to insure they have an understanding of requirements to prevent violations that may compromise public health. In addition, the Division will keep abreast and make available information on emerging innovated technology that will assist public water suppliers comply with the newer, more stringent federal standards.

All public water system services provided are mandated at the current time. Division of Water Supply strategies for providing mandated services include improving the Division's program information on the web, revising and improving the Division's contribution to the Department's business resumption plan, and improving coordination between EACs and the Nashville Central Office (NCO). Furthermore, it is the strategy of the Division to coordinate and partner with the Fleming Training Center (FTC), Environmental Protection Agency (EPA), KY-TN AWWA (American Water Works Association), MTAS (Municipal Technical Advisory Service), Water Quality Control Board (WQCB), and the Tennessee Association of Utility Districts (TAUD) in educating water system officials (managers, board members and utility district commissioners) regarding Safe Drinking Water Act requirements and their liability. The Division of Water Supply's Ground Water/Source Water Management Section has also undertaken partnerships on specific projects with the U. S. Geological Survey (USGS); Tennessee Valley Authority (TVA); Tennessee Association of Utility Districts (TAUD); University of Memphis/Ground Water Institute (GWI); University of Tennessee, Knoxville (UTK); and Middle Tennessee State University (MTSU).

Tennessee Water Resources Information Act, TCA 69-8-302 et seq. requires that the state "institute a system of registration of water withdrawals so that adequate information is obtained to document current demand for water and to project growth in that demand." Federal Statutes do not mandate the registration or permitting of water withdrawals and/or use.

The best means of performing the required service is for the Division to make available forms on the internet, partner with the Tennessee Valley Authority (TVA), U.S. Geological Survey (USGS) and Tennessee Farm Bureau (who are interested in the data) to educate water users and issue forms to suspected and/or potential withdrawers of water.

Water Well Licensing, TCA 69-11-102 et seq., provides support to the Board of Ground Water Management. New licenses are issued to applicants who have been recommended by the Board of Ground Water Management and approved by the Commissioner. The board also advises the Commissioner concerning applications for license, complaints, and construction standards. The purpose of licensing drillers is ensuring protection of Tennessee's ground water resources from surface contamination.

Optional services of the well program include providing water well data to both the public and private sector. Printouts of data are distributed at low cost to consultants and the public concerning well construction across Tennessee.

Division of Water Supply strategies for providing mandated services include allowing drillers the option to file a Notice of Intent to drill a well via the web, telephone, or mail. In addition, Division staff will work with the Tennessee Water Well Association (TWWA) to educate drillers regarding construction, rules and rule changes, and the industry in obtaining the required continuing education units (CEUs).

Safe Dams, TCA 69-12-101 et seq. regularly inspects dams. Each dam is investigated to determine its downstream hazard potential and is inspected to determine if it meets safety standards. Dams that do not comply are required to be brought into compliance.

Further, dam owners must submit plans for construction and repairs of existing dams. All construction has to meet the safety standards contained in the regulations.

Safe Dams also determines whether or not dams are exempt from regulation as “farm ponds” or other categories. Each exempt dam is visited every five years to see if it still qualifies for the exemption.

One strategy to promote dam safety in Tennessee is that working in partnership with the West Tennessee River Basin Authority (WTRBA), Tennessee Wildlife Resources Agency (TWRA), the Division of State Parks and the Association of State Dam Safety Officials (ASDSO), a national non-profit organization of state and federal dam safety regulators, dam owners and operators, engineering consultants, contractors and others interested in dam safety.

Under the Water Environmental Health Act, TCA 68-221-901 et seq, the Division provides compliance training and tracks public water system compliance with the requirement to retain a certified operator in direct charge. The Division conducts an annual survey of certified operators to verify compliance. The program provides no optional services.

The Division’s strategy has been to partner with the KY-TNAWWA, Tennessee Water Quality Management Association (TWQMA), and the Tennessee Association of Utility Districts (TAUD), and the Fleming Training Center to provide workshops and seminars for operators to become trained and retain certification through continuing education.

The Ground Water Management Section of the Division develops wellhead protection/source water protection plans and conducts contaminant source investigations. The Source Water Assessment service requires a risk analysis to determine the susceptibility of each water system source (ground water or surface water) to contamination. Each state must develop a wellhead protection/source water assessment program.

State requirements relative to the Wellhead Protection/Source Water Assessment Programs are reflected under the Safe Drinking Water Act and the rules and requirements promulgated under those acts. The Ground Water/Source Water Management Section has partnered with TAUD, TVA and GWI in the Wellhead Protection/Source Water Protection. GWI also maintains the source water assessment website for the Division of Water Supply and a public water system GIS database.

The Underground Injection Control service regulates discharges via a well, improved sinkhole or other subsurface fluid distribution systems to ground water. Regulation of the Underground Injection Control requires an initial site inspection, permitting, sampling and follow-up inspections of underground injection facilities as well as investigation and enforcement against illegal discharges.

The primary focus of the UIC program is Class V wells, which are shallow injection “wells” into drinking water aquifers). Included in Class V wells are wells, improved sinkholes (sinkholes modified to take storm water or waste injection) and subsurface distribution systems (large capacity and commercial/industrial septic tanks). All injections to the ground water require the issuance of a permit designed to protect ground water.

Division of Water Supply strategies for providing mandated services include partnering with municipal and county government on construction and development in areas prone to have

sinkholes. Community outreach programs and workshops have been conducted to inform developers, homeowners, industry officials, etc. of the procedures to obtain permits and the need to protect Tennessee ground water resources. Close coordination with the Division of Ground Water Protection prevents duplication of effort of large capacity septic tank systems.

Finally, the Division will work with Department leadership and its sister divisions in the Department to develop and/or improve its business resumption plan, improve its communication and coordination with Environmental Assistance Centers (EACs), and strengthen ties between the Department's strategic planning activities and the State's Performance Based Budgeting (PBB) initiative.

## Performance Standards

1. Conduct training, inspections, and enforcement action to insure community water system customers receive drinking water that meets all applicable health based standards that are in effect on December 31, 2001.
2. Protect Tennessee's ground water resources by licensing qualified applicants and assuring compliance with construction and installation standards.
3. Maintain proper operation of public water systems by having a certified operator designated as being in responsible charge.
4. Maintain at least 95% of regulated dams in compliance with dam safety standards and encourage compliance by non-regulated dams.

## Performance Measures

1. Percentage of the population served by community water systems that will receive drinking water that meets all applicable health based drinking water standards that are in effect on December 31, 2001.

[Note: A baseline of 97.2% of the population received water meeting standards during fiscal year 2001-2002; year-to-year performance is expected to change over time as new standards take effect.]

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96%	95%	96%

2. Percentage of qualified water well drillers, pump and treatment installers to be issued renewal licenses by August 15, 2004.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

3. Percentage of the public water systems having a certified operator.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
97%	97%	97.5%

4. Percentage of all dams in compliance with safety standards.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	96%	97%

### **Obstacles to Meeting Objectives and Delivering Services**

The 1996 Amendments to the State Drinking Water Act resulted in a proliferation of new regulations. The Department has adopted 13 new regulations many in the past four years in order to maintain primacy. The accelerated promulgation of these new rules has affected the state's ability to provide the needed training to public water supplies. In addition, the EPA will publish at least four new regulations over the next 18 months that states will have to adopt and enforce.

Another issue confronting the program and the regulated communities is sabotage or threats of sabotage by persons of domestic or foreign origin. These threats can interrupt the normal flow of work and seriously impede progress toward providing uniform and consistent services across the state. And finally, the science relating to drinking water is evolving and new problems are continually being discovered that previously have not been investigated resulting in resources being diverted to address the new problem that demands attention by the public.

There is no well abandonment program in Tennessee and issues such as leaking petroleum pipeline do not fall under any other program. The program has investigated the illegal dumping of dead chickens, waste oil, garbage and sewage into abandoned wells.

### **Means of Overcoming Obstacles**

The program will continue to monitor its activities in water supply and make adjustments to program activities as needed in order to maintain primacy. Resources from other areas within the program may have to be shifted in order to assure that owners and operators have received detailed information on new requirements. At the time when it appears that the lack of sufficient staff is restricting the program's ability to assist public water systems in achieving compliance, a budget expansion paid by a fee increase will be proposed and submitted.

The program currently has staff trained in the accepted EPA methodology for evaluating security issues at water treatment facilities. Assistance will continue to be provided to public water suppliers on steps to take to secure their facilities. Public water supplier that do not take steps necessary to ensure their facilities are secure will be targeted for assistance or enforcement action as deemed appropriate. Efforts will be made to ensure public water supplier's emergency response plans are up-to-date.

The program will continue to work to have the well abandonment issue addressed through changes in public awareness and attitude and if necessary through legislation.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department has requested and made use of the maximum available federal funds to Tennessee. Every effort will be made to ensure the maximum use of federal funds in carrying out mandated programs.

The drinking water program must maintain primacy for federal programs to remain eligible for federal funding. To remain eligible Tennessee's drinking water standards must not be less stringent than federal requirements. The program has adopted federal standards and complied with primacy requirements in order to maximize federal funding and plans to continue to do so if resources permit.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The water supply supervision program has used standard operating procedures for many years for conducting sanitary surveys and enforcement activities. It encourages input from the regulated community on issues relating to drinking water. The Division will maximize the use of water well, water supply and security specialists interchangeably where their training and experience allow. The Division does not staff EACs unless the workload justifies it. Cross training of staff is maximized.

All water withdrawal registration activities are being undertaken with existing program staff with cooperation from non-contract agencies, including the Tennessee Valley Authority (TVA), United States Geological Survey (USGS), and Army Corps of Engineers.

Well program inspection activities are coordinated with the Environmental Assistance Centers (EACs) and personnel are cross-trained to provide efficient use of staff time and expertise. The program uses prison resources to key driller reports into the database. DWS staff will assist Tennessee Water Well Association in providing continuing education to the industry.

The safe dams service has used standard operating procedures for many years for conducting dam inspections and farm pond reviews. Safety inspection schedules have been reviewed and schedules adjusted to take advantage of conducting multiple inspections on a single field trip and so spread out the workload throughout the year. Reviews of farm pond statutes are conducted by county to take advantage of travel times.

### **Future Challenges and Opportunities**

Public water systems are now serving more sensitive subgroups of customers (individuals undergoing chemotherapy, organ recipients, and those with immune deficiencies) than ever. Microbiologists have identified over 5,000 species of bacteria, 25,000 fungi, a wide variety of protozoa, and other microorganisms that can contaminate water supplies. Some of these organisms are not killed by chlorination. Filtration and alternate disinfection methods must be used to remove or kill these organisms. Treatment techniques have been mandated that control many pathogenic organisms. It is reasonable to anticipate that current drinking water regulations will continue to be revised to reflect additional treatment technologies and surveillance methods.

Because the technology needed to assure safe drinking water is becoming more complex, the level of competency of water treatment plant operators must also increase. Training, continuing education, and competency testing must continue to be upgraded and directed toward the operators and managers of public water systems.

It is anticipated that the number of water users withdrawing 10,000 gallons or more on any given day will increase over the next 5 to 10 years. In addition, impacts from current exempt agricultural users should begin to be noticed for their impact on sources. Because increasing

competition for water from other states and from watersheds, which have insufficient resources, is an issue.

The Mississippi Arkansas Tennessee Regional Aquifer Study is attempting to determine the safe and sustainable aquifer yields for the aquifers of concern in that area. There are additional concerns across the state as to sustainable development versus water supply adequacy as well as drought issues.

EPA is pushing for statewide ambient (naturally occurring) ground water monitoring similar to what is done for surface water across the state using Section 106 (Clean Water Act) Surface Water funds. These funds are only 15% of the entire Section 106 grant and are only used to pay for staffing. Statewide ground water monitoring is orders of magnitude more complex, expensive and difficult to monitor than surface water.

### **Performance Data Schedule**

Performance data will be reported to senior management within 45 days following the end of the quarter.

Compliance data from the monthly and quarterly samples from public water systems will be evaluated and the population receiving water meeting all the health related standards will be determined and reported for performance standard 1 within 45 days following the end of the quarter.

Compliance with performance standard 2 is determined August 31 of each year since persons holding a license are required to renew their license by July 31 of each year. This information will be reported by August 31 of each year.

Compliance with performance standard 3 on water systems with a certified operator will be determined by June 30 each year from Division records and confirmed by the annual notification from the systems due August 1 of each year. This information will be complied and confirmed by August 31 of each year.

Compliance with performance standard 4 on dams in compliance with safety standards will be determined by July 31 of each year and reported by August 15 of each year.

### **Data Verification**

Drinking water compliance data is retained in electronic databases in the division's central office files and in appropriate Environmental Assistance Center offices. Following each compliance period, the information from the central office is compared with that in the environmental assistance center. Any discrepancies are resolved before a system is shown as having a violation. This will ensure the information for performance standard 1 is accurate. Additionally, EPA conducts data verification audits to identify errors and other discrepancies.

The water well program sends out annual renewal notices to each licensed individual by the middle of June. Prior to the end of July a second notice is mailed. The fee payments are matched with the license renewals to insure that all eligible licenses are renewed for performance standard 2.

On August 1 of each year, all public water systems required to have a certified operator are required to notify the Board of their certified operator. This information is checked against Division records and sanitary survey information for accuracy. This information is used to determine systems in compliance with the certification requirements under performance standard 3.

The safe dams program generates reports showing dams that are not in compliance with safety standards. This information is verified by the appropriate EAC. Dams in violation with safety standards are confirmed and used for performance standards.

### **327.40 Ground Water Protection**

The Ground Water Protection program is charged with regulating subsurface sewage disposal systems to protect the environment, to insure that the possibility of endangering the health and welfare of the public is minimized, and to prevent the development of esthetically offensive conditions from occurring as the result of inadequate or inappropriate septic waste disposal. The program provides service delivery to the public by stationing qualified technical staff throughout Tennessee.

### **Statutory and Constitutional Objectives**

In accordance with TCA 68-221-403 et. seq., the program is required to exercise general supervision over the planning, location, construction, operation and maintenance of subsurface sewage disposal systems; adopt and enforce rules and regulations which govern subsurface sewage disposal; establish standards for proposed subdivisions where subsurface sewage disposal systems are to be utilized by reviewing and approving the plans and plats of such developments; enforce the rules and regulations that govern subsurface sewage disposal by providing inspection of system construction; investigate complaints that concern malfunctioning subsurface sewage disposal systems; issue permits for the construction of both new and repair subsurface sewage disposal systems; and issue permits for persons engaged in the business of installing subsurface sewage disposal systems and to persons engaged in the business of removing accumulated waste from such systems.

### **Mandated and Optional Services and Means of Providing Them**

The program is required to conduct reviews of proposed subdivision plans to insure that each lot is acceptable for subsurface sewage disposal (TCA 68-221-407). Site investigations are made to insure that suitable soil conditions exist, proper drainage is available, adequate lot sizes are designated, and protection of ground and surface waters is met for every proposed lot within a subdivision development prior to providing plat approval.

The program evaluates property for site suitability prior to issuing a permit to construct a subsurface sewage disposal system (TCA 68-221-403). Where marginal soil conditions are encountered, additional site data is required such as soil maps, and/or percolation tests.



The program thoroughly inspects the construction of all newly installed subsurface sewage disposal systems to insure compliance with applicable rules and regulations governing such systems (TCA 68-221-403(4)). Where construction flaws are encountered, the necessary corrections are required and verified prior to granting final approval of the system.

The program annually permits individuals engaged in the business of constructing and/or removing waste from such systems (TCA 68-221-403(7)). System installers are given written tests to establish competence in the rules and regulations governing subsurface sewage disposal systems prior to receiving such permits.

The program investigates complaints concerning potential environmental and public health hazards stemming from malfunctioning subsurface sewage disposal systems (TCA 68-221-401). In these complaint matters, corrective measures are directed, and legal action is exercised when necessary.

Upon request, the program re-inspects existing subsurface sewage disposal systems for lending institutions when homes are sold or re-financed. This is an optional service that is sometimes provided by the private sector. However, since the program permits the construction of all subsurface sewage disposal systems and retains the records pertaining to these systems, the program is looked upon by most lending institutions as the appropriate authority to provide a professional, unbiased assessment of the condition of an existing system.

The program collects water samples at the request of property owners whose homes are served by a private water source. These water samples are mailed or delivered to a state laboratory for bacterial analysis. The collection of water samples is also an optional service that can be completely privatized. The private sector has the ability to conduct more intensive water analyses within a flexible time frame.

Where municipal sewer system expansion is proposed, the program is commonly asked to conduct a survey, which assesses the functionality of existing subsurface sewage disposal systems within a neighborhood, community, and/or development. The findings of this survey are commonly used to secure grant money for municipal sewer projects.

The program issues Certificate of Verification (COV) forms to individuals wishing to utilize an existing subsurface sewage disposal system. The COV form, or a copy of an application for a permit to construct a subsurface sewage disposal system, is required by local electrical utilities before electrical power is supplied to a residence.

Privatization of the mandated services listed above would require statutory changes, and financial expenses to the public for these services would likely increase dramatically over the current fee structure should privatization occur. Additionally, should any of the mandated services become privatized, close oversight by the state would be necessary.

## **Performance Standards**

1. Issue construction permits for subsurface sewage disposal systems where suitable soil conditions exist.
2. Approve subdivision projects where applicable statutes, rules and regulations are satisfied.
3. Investigate 100% of complaints pertaining to malfunctioning and/or illegal subsurface sewage disposal.

4. Respond to all variance requests within 90 days.
5. Administer all permitting requirements through annual license of individuals engaged in the business of installing subsurface sewage disposal systems and/or removing waste from such systems.

### **Performance Measures**

1. Number of subsurface sewage disposal system permits issued.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
18,000	20,000	20,000

2. Number of subdivision lots approved.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
7,500	8,000	8,000

3. Percentage of complaints investigated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

4. Variance responses made within 90 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
162 out of 162 (100%)	100%	100%

5. Number of annual permits issued to qualified installers and pumpers.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,903	2,000	2,250

### **Obstacles in Meeting Objectives and Delivering Services**

The program's services, and ultimately its revenues, are directly impacted by the economy. Therefore, a downturn in any fiscal year will result in a decline in home construction, and thus, a proportional decline in the issuance of subsurface sewage disposal system construction permits. Likewise, when home sales decline, re-certifications and subdivision approvals decline. To this end, adjusting a static staffing structure to fluctuating service demands is a major obstacle in meeting program objectives. Furthermore, all services are performed based upon demand, making projections on the number of services difficult.

### **Means of Overcoming Obstacles**

A major program goal is to cross train existing staff and utilize the program's statewide staffing structure to aid the service delivery of other divisions and state agencies. Thus, service delivery to

the public will be more efficient, and additional revenue for the program will be realized through journal vouchering.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Division receives no federal or non-state revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The program conducts a workload and staffing analysis at least annually to evaluate service demands, staffing needs, and operational costs. Monthly budgetary reports are generated to evaluate incoming revenue and line item expenses and balances. Additionally, to maximize savings the central office staff and regional field office managers closely monitor monthly expenditures. The program staff is instructed to carefully plan each business day to minimize travel expenses, reduce unnecessary visits to property, and maximize service delivery in the most efficient means possible.

### **Future Challenges and Opportunities**

The majority of the program's staff utilizes personal vehicles while conducting state business. While the use of state vehicles typically involves less expense than paying mileage reimbursements for the use of personal vehicles, the program lacks the necessary capital outlay to furnish state vehicles to all staff. Therefore, the program will closely monitor travel expenses and budget for the expanded use of state vehicles in those areas of high service and travel demand.

Another challenge the program faces is that the residential development trend continues to move towards smaller lots with larger dwellings on land that is increasingly marginal for subsurface sewage disposal. Therefore, new technologies for residential sewage treatment and disposal will be continue to be studied further.

The program must evaluate the current optional services it provides, and determine the cost-effectiveness of providing these services. For instance, the program collects water samples upon requests for individuals whose homes are served by a private well or spring. The program charges \$50 for this service. However, in light of the travel required to collect the water sample, the postage necessary for delivery of the sample to the state lab, and the resulting lab charges, the expense in providing this service far exceeds the current fee. Furthermore, many private businesses are better equipped to conduct more intensive water analyses that provide more useful information to the customer. Therefore, a program goal is to no longer collect water samples.

The program has the future opportunity to greatly increase the efficiency of the Department by utilizing its current staffing structure to serve as a local departmental representative. Thus, travel and staff time of other divisions will be reduced in many instances, and service delivery to the public will be provided in a timelier manner.

## **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

A daily activity log is submitted by all environmental specialist staff to their regional field office manager on a monthly basis. Additionally, the program automated “activity system” is adjusted and totaled monthly to track service delivery. From these totals, quarterly reports will be compiled to assess program performance.

## **Data Verification**

Fee collection for the services reflected in each performance standard must take place prior to service delivery. Application for services and fee collections follow State accounting and receipting procedures. Monthly certificate of deposit reports are generated by each program office and provided to the central office for verification of data.

## **327.41 Underground Storage Tanks**

The Underground Storage Tanks program is responsible for enforcing compliance standards for petroleum underground storage tanks, for enforcing the correction or remediation of releases of petroleum to the environment from underground storage tanks, and for managing the Tennessee Petroleum Underground Storage Tank Fund.

## **Statutory and Constitutional Objectives**

The Tennessee Petroleum Underground Storage Tank Act (TCA 68-215-101) requires a coordinated statewide program in cooperation with federal, state, and local agencies for the prevention, control, or abatement of air, water, and land pollution. In addition, the act requires a mechanism for the remediation of environmental pollution due to releases from petroleum underground storage tanks and a comprehensive investigation and clean-up fund to address the problems caused by such releases.

Federal rules that relate to the underground storage tank program, 40 CFR 280 and 281, establish compliance standards for underground storage tank and piping equipment as well as for the operation of tank systems. These rules also set the standards for state program approval by the U.S. Environmental Protection Agency (EPA). These rules are based on the Resource Conservation and Recovery Act of 1976 as amended by the Superfund Amendments and Reauthorization Act of 1986.

Federal regulations at 40 CFR 280.90 through 280.111 require owners and/or operators of underground storage tanks to establish and maintain financial responsibility both for taking corrective action to remediate releases from UST systems and for compensating third parties for bodily injury and property damage caused by releases from UST systems. Tennessee provides the financial responsibility for Tennessee tank owners and/or operators via the Tennessee Petroleum Underground Storage Tank Fund.

## **Mandated and Optional Services and Means of Providing Them**

**Compliance Service:** State law mandates that tanks owners register their tanks (TCA 68-215-106). The registration data allows the program to locate regulated facilities for compliance inspections or for investigating potential leaks to public waters. An underground storage tank (UST) cannot be used without a posted certificate (TCA 68-215-106). Certificates are mailed to the applicant upon payment of annual tank fees. Annual tank fees fund the Tennessee Petroleum Underground Storage Tank Reimbursement Fund. This fund reimburses tank owners, operators or petroleum site owners for the assessment and remediation of petroleum contamination released from UST systems. TCA 68-215-107(a) mandates supervision of operational requirements for UST facilities. Inspections assure compliance with state and federal regulations.

**Remediation Service:** (TCA 68-215-107) is mandated to approve a clean-up plan only if it will provide adequate protection of human health, safety and the environment. The determination of this mandated standard is based on a list of site-specific environmental factors, also mandated by statute, which must be considered by the Department. The best means of providing this required service is to implement a risk based corrective action strategy designed specifically for the UST remediation program. State specific design is important because the geology of each state is different. The statute mandates consideration of site geology (hydrogeology).

**Reimbursement Service:** The fund is required to reimburse the costs, less the deductible, associated with remediation of petroleum contamination caused by leaking underground storage tanks. The fund is also required to reimburse the costs, less the deductible, associated with third party claims for bodily injury and/or property damage caused by leaking underground storage tanks. The program carries out the fund reimbursement service mandated by state law, TCA 68-215-111, by providing reimbursement of costs associated with UST releases to tank owners, tank operators and/or owners of petroleum sites. By performing the reimbursement service, the program is benefited by the ability to apply some cost control measures. Management of both the remediation program and the reimbursement program by the same agency is beneficial in that costs can be directly linked to, as well as limited to, those remedial actions which are necessary to provide adequate protection of human health, safety and the environment. The best means of providing the service is to utilize a strategy for approving cost proposals for planned remedial activities before those activities can be performed.

## **Performance Standards**

1. Issue 100% of annual certificates to existing tank owners who have paid all outstanding fees and late payment penalties prior to the expiration date of the current certificate.
2. Inspect 20% of active registered underground storage tanks facilities annually for compliance with equipment and operational standards.
3. At least 13 % of petroleum contaminated sites, which have not previously reached their clean-up goals, shall reach their clean-up goals each year by providing adequate protection of human health, safety and the environment, which shall be indicated by the site obtaining case closure.
4. Evaluate 100% of the applications for fund eligibility (Authorization for Fund Eligibility Forms) received each year within 45 days of receipt.

## Performance Measures

1. Percentage of annual certificates printed prior to the expiration date of the current certificate for existing tanks where owners have timely paid all required fees.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
84%	95%	100%

Note: The 84% was due to receipt of the blank certificate forms from the printer too late for the certificates to be printed prior to the expiration date in one grand division of the state.

2. Percentage of active registered facilities inspected annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
20%	20%	20%

3. Percentage of sites that reach their clean-up goals through adequate protection of human health, safety and the environment, i.e., that achieves site closure each year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
11%	12%	13%

Note: These percentages are directly related to the number of releases discovered annually, which the Division desires to reduce through effective compliance program.

4. Percentage of Authorization for Fund Eligibility Forms, which have been evaluated for reimbursement from the Tennessee Petroleum Underground Storage Tank Fund within 45 days of receipt.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
92%	95%	98%

## Obstacles to Meeting Objectives and Delivering Services

While the program anticipates being able to meet the performance standards in the Compliance Program, the Department as well as the federal government would like to see more frequent compliance contacts with individual UST facilities accomplished by reaching more UST facilities each year. Annual review of compliance at each facility would be the ideal.

Some of the materials used in the manufacture of flexible plastic piping, installed as a part of underground storage tank systems, is subject to problems, which could result in releases to the environment when petroleum is in contact with the outer wall of the piping. The Division has attempted to contact all tank owners by mail alerting them to the potential for problems with this type of piping. Also, Underwriters Laboratories is in the process of setting new standards for the future manufacture of flexible piping for use in underground storage tank systems. However, there is the potential for an increased number of releases due to the piping problems.

There is a backlog of claims submitted by tank owners, operators or petroleum site owners waiting to be processed by the program. The balance of the fund itself is insufficient to pay all the

previously submitted claims at one time. There are several funding sources which contribute to the reimbursement fund: (1) the environmental assurance fee of four tenths of one cent per gallon collected on all petroleum imported into the state or manufactured in the state, which is deposited monthly into the UST Fund account at least one month after collection; (2) interest earned by the fund account is credited to the account about three months after being earned; (3) civil penalties assessed on enforcement actions are deposited as they are collected throughout the year; and (4) annual tank fee collections are spread throughout the year with the bulk of collections spread over a nine month period. Because these funds are collected incrementally throughout the year, the total annual collection is not available for payout at the beginning of each fiscal year. A backlog of payments to tank owners can occur while the UST fund is waiting on funding sources.

### **Means of Overcoming Obstacles**

The program is currently working with EPA to develop an Environmental Results Program for underground storage tanks. A federal grant is being utilized to develop a program, which will be used not only by Tennessee but also by underground storage tank programs nationwide. Once this program is developed and implemented, the program will have annual contact with each and every tank owner regarding compliance with equipment operational standards. The compliance inspections performed by the program will be either randomly selected, statistically significant inspections, or will be targeted toward non-compliant tank owners.

Regulatory changes are being developed which, if promulgated by the UST Board, will require monthly inspections by the tank owner/operator of visible portions of flexible piping. This should help tank owners as well as discover piping problems before they result in piping failures, i.e., releases to the environment. Regulatory changes are also being developed to apply a risk based corrective action approach to existing clean-up plans, so that time, as well as UST Fund dollars, can be saved by cleaning up only that petroleum contamination which poses a risk to human health, safety and/or the environment.

The program is in the process of developing a strategy for approving cost proposals for remedial activity costs, so that the cash flow out of the UST Fund is controlled and so that the cash available to the UST Prioritization of sites will be a part of this plan so that remediation costs associated with those sites, which pose the highest risk to human health, or safety will be promptly approved. Other sites will be moved incrementally toward the statutory standard of adequate protection of human health, safety and the environment. Once cost proposal approval is implemented, the flow of cash out of the fund can be controlled to keep pace with the annual flow of cash into the fund.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Environmental Results Program (ERP) allows for self-certification by the regulated community with targeted inspections selected by statistical analysis. This gives the programs information on every UST facility every year and provides data for targeting inspections. Other methods collect data on only 20% of the UST facilities each year.

The program annually receives a Regulatory Grant from EPA. In FY 2002–2003, the dollar amount supplied by EPA was \$186,700 (75% of the total). The dedicated UST Fund matches this grant with 25%. These funds are used in the compliance program, primarily to fund positions, which perform compliance inspections.

In FY 2002-2003, the program received a one-time, restricted grant from EPA, which must be used for equipment, supplies, and materials necessary to develop and implement an Environmental Results Program (ERP). The dollar amount already received under this grant is \$125,000. The grant request was for \$200,000. The \$75,000 balance of the grant request may be forthcoming if, and only if, funding becomes available at the federal level. If EPA is able to grant the additional \$75,000 for ERP development and implementation, those funds will be paid over the next two years.

The program has applied for a portion of a one-time federal grant in a joint grant application with the states of Florida and Massachusetts. The total grant request is for \$1 million, to be divided as follows: \$250,000 to Tennessee, \$250,000 to Florida, \$500,000 to Massachusetts. Massachusetts will administer the grant as the lead agency and will distribute the funds to Florida and Tennessee. This grant money, if awarded, is to be used for automation of the Environmental Results Program

The program has submitted a grant request to EPA Region 4 for \$30,000 to be used for outreach for the Environmental Results Program. This would be a one-time, restricted use grant, if awarded.

The program receives an annual federal grant from EPA, known as the Leaking Underground Storage Tanks (LUST) Trust Grant. The grant total, including a 10% state match, was approximately \$1.3 million last year. There is a two-year project period for spending the grant money. Under the LUST Trust Program, the usage restrictions state that this money must be used for abandoned petroleum sites or at sites where the tank owner is either bankrupt or recalcitrant. Cost recovery is required if dollars are spent addressing sites with recalcitrant tank owners. The sites in the LUST Trust program must also be high priority sites based on risk. LUST grant money may also be spent for staffing positions, which directly work with the division's remediation service.

In October of 2002, the program received a one-time federal grant known as an UST fields Grant. This grant was for use at three petroleum sites in the East Tennessee area. The total grant amount, including a 10% state match, was for \$111,111. This grant was for low priority contaminated or perceived contaminated sites and required community involvement with a revitalization strategy. The program hopes to compete for other one-time grants under the federal Brownfield's program for UST projects.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Environmental Results Program has been discussed above as an alternative means of providing compliance inspection services in order to maximize existing resources and maximize the impact of the UST compliance program. EPA is also supplying program development support in the area of creation of the plain language workbook for tank owners and in the area of scientifically valid statistical analysis of data as well as a program for random selection of annual, non-targeted inspections. The Division may increase the number of inspections performed annually if allowed to utilize other inspection resources within and outside the Department.

The preliminary assessment work required is established by regulation to control the cost by limiting the number of soil borings and monitoring wells drilled at each contaminated site. Regulations also divide sites into those which pose a significant threat and those that only need to be monitored. The UST regulations establish that the fund will not pay for reimbursement of



corrective actions at sites, which qualify for monitoring only. The regulations also allow a tank owner to establish a site specific standard, which saves the fund remedial costs at the site if there is not a risk to human health, safety or the environment as determined by an exposure assessment.

The program has a policy of verifying the installation and operation of remediation equipment considered to be capital equipment or a capital expense prior to making an initial reimbursement payment for that equipment. The program also employs a tracking system used by both the remediation program and the reimbursement program. Entries are made by staff working in the remediation program, which record remedial activities taken by the tank owner, operator or petroleum site owner. The tracking is accessed by staff working in the reimbursement program to confirm that the remedial activities included in a claim for reimbursement have been performed and have been approved by the remediation service. Costs, termed “reasonable costs” in the UST regulations, have been established based on research by staff of rates charged for like services in the state.

### **Future Challenges and Opportunities**

The U.S. Senate has passed Senate Bill (SB) 195, known as the “Underground Storage Tank Compliance Act of 2003”. The U.S. House version of the bill is under development. If SB 195, or similar legislation takes effect, the UST compliance program will be impacted by new federal mandates. SB 195 requires that all underground storage tanks be inspected at least once every two years. SB 195 requires states to develop and implement a strategy for training tank operators. While some funding for states may be connected with SB 195 in the first year, subsequent annual federal appropriations would be necessary to fund this federal mandate.

EPA is urging states to investigate and consider a “Pay for Performance” approach to reimbursing tank owner/operators for remediation of releases from underground storage tanks. The challenge which will continue to face the program at least for the next few years is the increase in remediation costs while there will not, in all likelihood, be a corresponding increase in funding for the reimbursement fund. Thus control of cash flow is a challenge, which is critical to fund management.

### **Performance Data Schedule**

For performance standard 1, a quarterly report on the percentage of certificates timely issued during the previous quarter will be available 30 days after the end of each quarter.

For performance standard 2, quarterly reports of compliance inspections performed will be available on the 30<sup>th</sup> day of the following months: January, April, July and October

For performance standard 3, the Division will post the performance data for site closure on their home page on the Department web site by August 1<sup>st</sup> of each year.

For performance standard 4, an annual report on the percentage of Authorization for Fund Eligibility Forms evaluated during each state fiscal year will be available in August of the following fiscal year.

## **Data Verification**

The program maintains a database in Microsoft Access containing records of tank owners, fee collection and certificate printing. The date the certificate is printed is recorded in the database. A query has been designed to produce a report showing the number of certificates printed at least 30 days before the effective date of those certificates if fees were timely paid. A separate report is required for each grand division of the state, east, middle and west, as the certificate date for each grand division is different.

A Microsoft Access database is maintained by the program for recording inspection information. A query of the data in this database is used to determine how many inspections are done each year. This number is then compared to the number of active UST facilities recorded in a separate Microsoft Access database (discussed in the paragraph above).

The program maintains a Microsoft Access database to track the petroleum sites, which have experienced a release of petroleum, which is being remediated, by the tank owner and/or operator. When a remediation case has been closed, i.e., the site has been cleaned up to the point where it has been determined that there is no longer a risk to human health, safety or the environment, that information is entered into the database. A query is used to create a report of those cases closed in the fiscal year, which has recently ended.

When an Authorization for Fund Eligibility form is received by the program an entry is made into a Microsoft Access Database. When the case is reviewed for eligibility, the determination whether the release is eligible or ineligible for fund reimbursement is entered into the database as well. Annually a query is used to determine the number of approvals as well as the number of forms received.

## **327.42 Solid Waste Assistance Fund**

The Solid Waste Assistance Program promotes planning, development, and maintenance by local governments of comprehensive, integrated solid waste management programs. The program encourages generators and handlers of solid waste to reduce and minimize the amount of solid waste requiring incineration or disposal through source reduction, reuse, composting, recycling, and other methods.

## **Statutory and Constitutional Objectives**

Pursuant to the Solid Waste Management Act, (TCA 68-211-801), the solid waste assistance programs provide technical and financial assistance to solid waste regions to assist them in developing solid waste systems and programs needed to meet the 25% waste reduction and diversion goal. The 25% waste reduction and diversion goal is to be achieved by December 31, 2003.

## **Mandated and Optional Services and Means of Providing Them**

Solid waste planning monitors progress through solid waste regions. Each must meet the state's 25% reduction and diversion goal and secure approved regional solid waste plans (TCA 68-211-

814) updated every five years. Annual progress reports provide data to monitor a region's progress toward the 25% reduction and diversion goal. Sanctions are imposed if a region fails to submit adequate plans or if the Department does not approve the plans.

The program awards grants to help regions purchase equipment for recycling. The program also awards rebates for recycling. These grants are critical to helping communities reach the state waste reduction goal.

Outreach and educational services are provided to enhance awareness and knowledge of recycling. The program promotes cooperative marketing to enhance the economic viability of recycling.

The act also mandates special waste disposal. Household hazardous and problem waste activity (TCA 68-211-829) requires that the program conduct household hazardous waste collection days in each county. The Department contracts this service through MSE Corporation. This service requires special materials handling, packaging and transport skills uncommon to average vendors. TCA 68-211-867 directs the Department to develop program(s) to manage tires for beneficial end use. Counties receive grants to assist in funding the cost of collecting and shipping tires to a beneficial end user.

The solid waste act (TCA 68-211-865) encourages the state facilities; included are government offices, state parks and state colleges and universities to recycle and waste reduction to the maximum extent possible.

## **Performance Standards**

1. Improve statewide municipal solid waste reduction and diversion from Class I landfills and incinerators.
2. Expand waste tire beneficial use markets in Tennessee.
3. Increase the amount of latex paint reused in Tennessee.
4. Assist in lowering the waste disposal costs of state facilities through increasing recycling and waste reduction.

## **Performance Measures**

1. Percentage of waste reduction and diversion achieved.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
20%	24%	25%

2. Tons of waste tires processed to beneficial end use.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
46,800	49,200	52,000

3. Gallons of latex paint reused.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2,875	5,000	7,500

4. Number of tons of solid waste collected at state facilities for recycling.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY2004-2005)
1,200	1,300	1,500

### **Obstacles to Meeting Objectives and Delivering Services**

The state tipping fee surcharge that represents one half of the funding for the Solid Waste Assistance programs expires June 30, 2004. If this fee is not re-authorized, the program will have to reduce and/or eliminate services across the state.

### **Means of Overcoming Obstacles**

The Department is reviewing the Solid Waste Management Act to seek reauthorization of the state tipping fee surcharge in 2004.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The solid waste assistance program does not receive any federal funding. The program cooperates with the Recycling Marketing Cooperative of Tennessee (RMCT) and UT-Center for Industrial Services (UT-CIS) to enhance the viability of recycling. RMCT seeks out the most cost-effective markets for recyclables and combines materials from small recycling programs to minimize transportation costs and maximize prices paid for recycled materials. RMCT also provides technical advice to local government recycling programs for system design and purchase of equipment.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The program continues to comply with the existing standard operating procedures for all solid waste assistance grants. The program manager monitors the household hazardous waste contract and conducts on site assessment of county events and monitors the technical assistance provider contracts to assure work items are in accordance with contract.

### **Future Challenges and Opportunities**

National Electronic Product Stewardship Initiative (NEPSI) brings stakeholders together to develop policy statements and systems relative to electronic products waste management. The infrastructure for collecting, reusing, and recycling electronics in the nation has not kept pace with this growing waste stream, and the number of electronic products entering the waste stream will increase dramatically unless reuse and recycling options expand. All stakeholders involved, federal, state, and local governments, manufacturers, retailers, recyclers, and environmental groups, are concerned about and motivated to find a solution to this issue. Development of

infrastructure to address this special waste will be costly to the private sector or local governments and potentially in the next revision of the state Solid Waste Act.

### **Performance Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter. Program summaries are provided regularly at the Solid Waste Advisory Committee meetings. Annually, the program prepares a report to the Governor and State Legislature regarding program accomplishments for the previous fiscal year. This document is distributed in January following the close of the fiscal year.

### **Data Verification**

Data for performance standard 1 for the annual progress reports is collected in the Waste Reduction and Reporting Section's Excel spreadsheet. This spreadsheet is an internal tracking tool which shows by solid waste region when reports are due, when received, when comment letters are issued, along with other similar types of information.

The program's Grants Section also utilizes an Excel spreadsheet to collect information about grant applications received, offers issued, grant amounts, etc., which are used to verify performance standards 2 and 3. Procedures for use of this spreadsheet are contained in the standard operating procedures written for the various grant programs. The Grant Section also utilized a waste tire database to compile information regarding tire dealers, number of tires collected, where tires were sent for end use and timing between time dealer drops them off until they are processed for beneficial use.

### **327.43 Environmental Protection Fund**

The Environmental Protection Fund was created to improve performance in permitting, monitoring, compliance investigation, enforcement, and administration of the Department's functions under each environmental regulatory program. These functions are actually performed in each of the environmental programs that receive Environmental Protection funds.

### **Statutory and Constitutional Objectives**

Under TCA 68-203-101, the Department is directed to deposit into the Environmental Protection Fund all fees, civil penalties, and damages collected in accordance with state environmental statutes.

### **Mandated and Optional Services and Means of Providing Them**

This program is the source of funds that are used throughout the Department's environmental programs and supports services and activities related primarily to permitting, compliance, and enforcement.

### **Performance Standards**

1. Allocate fees to be used to fund environmental protection activities.

### **Performance Measures**

1. Amount of fees used to fund environmental protection activities.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$30,000,000*	\$35,826,000	\$35,826,000

Note: \*This is an estimate until final expenditure reports are received for closing out FY 2002-2003.

### **Obstacles to Meeting Objectives and Delivering Services**

There are currently no obstacles that interfere with this program at this time.

### **Means of Overcoming Obstacles**

Not applicable at this time.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal funds involved with the establishment of the Environmental Protection Fund.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The regulatory programs throughout the Department have identified their program's standard operating procedures to assure they effectively manage expenditures and avoid unnecessary costs.

### **Future Challenges and Opportunities**

There are none at this time.

### **Program Data Schedule**

Performance data will be reported to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The Division of Fiscal Services will review and verify the amount being used from the Environmental Protection Fund. The amount allocated to the environmental programs is monitored and reported monthly.

## **Tennessee State Parks**

### **327.12 Tennessee State Parks**

Tennessee State Parks preserves and protects some of the most significant natural and cultural resources in the state. Over 26 million people visit Tennessee state parks each year. Tennessee State Parks administers over 75 natural, cultural, and recreation areas, providing public access to a wide mix of programs and services.

### **Statutory and Constitutional Objectives**

TCA 11-3-101 established Tennessee State Parks in 1937. Those laws, with modifications and additions over the years, are still the framework of park operations today.

### **Mandated and Optional Services and Means of Providing Them**

The operation of Tennessee state parks is a mandatory service based on TCA 11-3-101. Capital improvements represent mandatory services and can include interpretive centers and museums, campgrounds, group camps, trails, cabins, inns, golf courses, and swimming facilities. Other services depend on visitation, sales revenue, and other factors and can include trails, concessions, recreational vending, and more

The Tennessee State Parks system can be broken down into two basic service areas: natural, cultural and traditional parks and resort parks.

Natural parks are areas of land, water, or both, which represent unique examples of the Tennessee landscape. Cultural parks contain archaeological or historical features that are desirable for protection, interpretation, and educational enjoyment. Traditional parks are those areas developed for time-honored outdoor recreational usage such as picnic areas, camping, and cabins.

Resort parks are the most intensively developed of all parkland areas and typically include an inn, restaurant, cabins, and golf course.

### **Performance Standards**

1. Preserve and protect Tennessee's natural and cultural resources.
2. Improve self-sufficiency in state parks resort facilities.

3. Maximize the use of volunteers and increase the number of “Friends of State Park” groups that have become vital components of state park systems nationwide.
4. Improve the occupancy in the resort facilities (inns and cabins) of Tennessee State Parks.

### **Performance Measures**

1. Number of state parks evaluated and resource management plans developed to protect natural and cultural resources.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
5	15	53

2. Percentage of operational self-sufficiency at all Tennessee State Parks resort facilities (cabins, inns, restaurants, golf courses, gift shops and marinas).

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
88%	91%	94%

3. Number of state parks utilizing a volunteer program and/or “Friends” organization.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
22	22	30

4. Increase occupancy rate in the resort facilities (inns and cabins) of Tennessee State Parks.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
42.5%	46.5%	50%

### **Obstacles to Meeting Objectives and Delivering Services**

The economy, available resources, weather, family vacation preferences, and school schedules affect occupancy and revenue.

State groups and business meetings have been a traditional boost in the park off-season- limits on in-state travel, caused by budget constraints, which adversely affects the revenue stream of park operations.

Change in how state parks does business represents an obstacle that can be overcome. Utilizing volunteers or shifts in park management priorities may meet some resistance but will net more efficient and consistent delivery of the services and protection state parks provides to its resources.

### **Means of Overcoming Obstacles**

Many of these obstacles are outside the realm of control of Tennessee State Parks. The Tennessee State Parks system will continue to examine promotional opportunities to attract and encourage visitation to the inns and cabins as well as to other park facilities.



Resort park operations will move toward self-sufficiency by improving customer satisfaction, product quality, and management skills. Management improvements will include accounting practices and procedures, cross training employees, curtailing labor, food and utility costs and reprioritizing the marketing plan. The end result being the creation of a dedicated customer base that will support Tennessee State Parks for years to come.

Several personnel changes made with existing personnel will improve operational and resource management strategies and facilitate several of the above listed performance measures.

Occupancy rate increases in the resort facilities will be increased by providing: sales staff at each park, an adequately funded marketing plan, funding for facilities maintenance in resort operations to insure quality appearance and delivery of service, and evaluating and implementing an incentive program.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are not used to fund the operational budget of Tennessee State Parks system.

State park friends groups assist state parks by donating time and money for special events, trail construction, and purchases as large as land acquisition and as small as office supplies.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Energy audits and conservation plans, which are currently underway, are expected to result in actions that could save from 30 percent to 50 percent in operational costs. Tennessee State Parks is also currently developing mowing plans to determine if there are areas that could be mowed less to reduce mowing costs.

### **Future Challenges and Opportunities**

State Parks are dependent on revenues from park visitors. The spending habits of park visitors are dependent on the local and national economies and marketing resources.

As communities around parks grow, the potential for encroachment and viewshed degradation which threaten park boundaries increase. If left un-addressed, these factors will ultimately degrade the visitor experience and negatively impact revenue. Preserving the resource and its environs has economic benefit to the state and park.

### **Performance Data Schedule**

State Parks staff will report performance data to senior management by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

Tennessee State Parks follow internal policies as well as Division of Fiscal Services policies when collecting data for performance standards 2 and 4. Parks management staff will rely upon regional park managers and the Natural and Cultural Resource management staff to review and assessment for verification of performance standards 1 and 3. Using Operational Performance Evaluations and Resource Inventories will support the evaluation of performance standards 1 and 3. Each of these documents has been used in the past to support quality park management. Parks management staff will analyze the data and provide reports to the deputy commissioner for Parks and Conservation in order to assess progress under each performance standard.

## **327.15 Tennessee State Parks Maintenance**

The Tennessee State Parks' Division of Facilities Management conducts Major Maintenance and Capital Project development for all State Parks.

## **Statutory and Constitutional Objectives**

The operation of Tennessee State Parks is based on TCA 11-3-101. Although there are no specific statutory objectives for the State Parks maintenance program, maintenance of state park facilities is critical to successful operation of the State Park System.

## **Mandated and Optional Services and Means of Providing Them**

Primary services are Major Maintenance and Capital Project development of all state parks. Annual Facility Assessment Surveys identify Major Maintenance items to be included in an annual maintenance Work Program (WP). Capital Projects are identified by October 1 of each year. Projects are administered through the Department of Finance and Administration, Capital Projects Management, on all maintenance and outlay projects.

## **Performance Standards**

1. Facility Assessment Surveys and the associated Major Maintenance Work Program will be completed prior to the beginning of each fiscal year.
2. Develop Capital Projects to meet low maintenance and resource efficiency standards.

## **Performance Measures**

1. Percentage of Park Facilities assessed and all major maintenance items identified prior to the beginning of each fiscal year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
94%	96%	98%

2. Percentage of funded Capital Projects developed that meet low maintenance and resource efficiency standards.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
60%	70%	90%

### **Obstacles to Meeting Objectives and Delivering Services**

Typically Capital Projects that include the development of natural or historical facilities do not consider or accommodate higher costs of construction.

### **Means of Overcoming Obstacles**

Find alternate methods, to State Purchasing, of contracting for maintenance work.

All interested parties must agree, during development phase of Capital Projects, as to their requirements and maintain that agreement for duration of project.

Identify projects early on that include natural and historical facilities to insure adequate funding and resource protection.

### **Means of Maximizing Federal/Non-State Revenues**

There are no federal/non-state funds received in current or previous year.

Matching Land and Water Conservation Funds issued through Division of Recreation Educational Services for FY 2003-2004 have been identified as a possible source for project funding.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Continue to develop a uniform Facility Assessment Survey process that accounts for all facility deficiencies, method of repairs and accurate construction cost estimates, and, corresponds with the overall long-range plans for State Parks.

### **Future Challenges and Opportunities**

The maintenance program will need to assure that the Facilities Assessment System (FAS) is utilized and results are followed, assuring that work is performed in the most effective manner. In addition, State Parks needs to secure adequate and stable funding source, perhaps a dedicated fund. Finally, State Parks will need to find alternate methods of contracting for maintenance work.

### **Performance Data Schedule**

Since most purchasing is accomplished through the state purchasing system, performance data will be available after the close of each fiscal year. Performance measurement can be achieved annually within 30 days of receipt of purchasing data.

### **Data Verification**

State Parks' regional personnel will log beginning and ending dates for surveys, requisitions, and work to assure timeliness. The regional personnel will document callbacks and long-term performance to assure best practices.

# **Department of Commerce and Insurance**

## **General Agency Information**

The Department of Commerce and Insurance is the primary regulator of business in the state of Tennessee. It houses over 60 different regulatory programs overseeing a wide range of commercial, professional and occupational activities. The Department was originally created in 1873 for the purpose of regulating insurance companies. Originally entitled the Bureau of Insurance and overseen by the State Treasurer, in 1913 the General Assembly changed its name to the Department of Insurance and Banking. The Department's responsibilities were expanded to include the regulation of financial institutions and securities, and direction of the agency was removed from the Treasurer's Office and placed under a Commissioner. In 1923, the Fire Prevention Program was created and placed in the Department, and the Commissioner was given the title of State Fire Marshal. In 1974, 1977 and 1978, the Firefighting Commission, the Program of Consumer Affairs and the Program of Regulatory Boards were respectively added to the Department. In 1983, the Department became the Department of Commerce and Insurance when the regulatory functions related to banking and financial institutions were moved to the newly created Department of Financial Institutions. The TennCare Oversight Program was established in the Department in 1995 and the Emergency Communications Board was created and attached in 1998. The construction of Fire Service and Codes Enforcement Academy was mandated by the General Assembly in 1994, and it officially opened in 2002.

The Department contains the following programs, some of which include multiple regulatory duties.

1. Administration
2. Insurance
3. Fire Prevention
4. TennCare Oversight
5. Securities
6. Consumer Affairs
7. Fire and Codes Enforcement Academy
8. 911 Emergency Communications Fund
9. Regulatory Boards
10. Real Estate Education and Recovery Fund
11. Auctioneer Education and Recovery Fund
12. Firefighting Personnel Standards and Education

## **Administration**

### **335.01 Administration**

The Administration program provides a wide array of services to each program within the Department of Commerce & Insurance. This program is divided among the following service

areas: the Commissioner's Office, Public Communications and Policy; Fiscal Services, Information Services; Internal Audit and Consulting; Legal, Legislative Affairs; and Personnel.

## **Statutory and Constitutional Objectives**

Established under TCA 56-1-201, the Department of Commerce and Insurance was originally created to primarily regulate the business of insurance. However, over the years, the Department has come to house a number of different agencies responsible for the regulation of numerous other professions and business activities. The Commissioner of the Department has also been given the duty to prevent and investigate fires, regulate securities, and many other duties listed throughout this document. The objective of Administration is to provide those ancillary services necessary for the Commissioner and all other areas of the Department to perform their specific statutory duties.

## **Mandated and Optional Services and Means of Providing Them**

TCA 48-2-115, TCA 47-18-5002, et al establish the authority for the Commissioner to provide certain administrative services. The Administration program provides a single resource for those types of service required of all agencies housed within the Department. These services include but are not limited to legal assistance, information system and fiscal support, media and legislative relations, internal audit functions, and the provision of various personnel related tasks.

## **Performance Standards**

1. Respond to and complete information systems desktop help calls within five days of receipt.

## **Performance Measures**

1. The percentage of completed responses in five days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	97%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

While each area within the program has unique challenges, certain obstacles transcend the various functions performed within the program. The program as a whole is unable to communicate and track basic information generated by the Department due to a lack of updated and integrated information systems. RBS, a non-windows-based system used by many of the regulatory licensing boards, is difficult to use and has limited capabilities. As an example, the answers to common information requests coming into the Commissioner's Office, Legislative Affairs or Public Communications Office concerning disciplinary actions or complaints against licensees, are very difficult to locate. Often, the Administration program is required to go to the specific

program area to obtain this information, which in certain instances, is kept in hard copy format only. Employees are also reluctant to fully utilize RBS due to its limited capabilities and unfriendly format (it is not a windows-based system), thereby further limiting the capabilities the system has to offer.

Other programs, such as Insurance, Securities and Consumer Affairs, utilize separate databases (Microsoft Access) which are not readily accessible by others within the Department. Fire Prevention has developed its own database – EPS – for tracking complaints. Thus, there is no integrated searchable tracking system available department-wide.

Overall, the Administration program feels it is hindered in performing its duties on behalf of the rest of the Department due to the information systems currently in place. This hindrance in turn restricts the program's ability to serve the public and provide readily available information to the consumer via online services or telephone requests.

### **Means of Overcoming Obstacles**

The Department believes that development of an integrated tracking system is possible and is currently working towards the replacement/upgrade and expansion of the antiquated RBS system.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Administration program is funded from intradepartmental revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The costs and expenditures of the program are for the most part fixed staffing and overhead costs. Expenditures are monitored on a monthly basis to ensure the program is operating within its budget.

### **Future Challenges and Opportunities**

Each year new legislation is enacted adding regulatory duties to the Department, often without providing additional administrative resources for operational costs. Given current resources, the program's challenge will be to continue to meet the growing needs of the various programs within the Department. These responsibilities range from arson investigation to the regulation of cosmetologists.

### **Performance Data Schedule**

Information Systems performance data will be available quarterly. This information will be available within 30 days after the end of every quarter.

## **Data Verification**

Information Systems response data is maintained in the section's CE Help's database.

## **Consumer Protection**

### **335.02 Insurance**

The Insurance program is generally charged with regulating the business of insurance in the State of Tennessee, as insurance is predominantly a state-regulated industry as opposed to a federally regulated industry. The Insurance program is the primary regulator for insurance companies, health maintenance organizations, insurance agents, prepaid limited health service organizations, and like persons and entities in this state. The five services within this program are:

- Financial Affairs
- Actuarial Rating
- Agent Licensing
- Consumer Insurance Services
- Self-Insurance/Workers' Compensation/Surplus Lines

### **Statutory and Constitutional Objectives**

Although not specifically created by statute, as the Department's responsibilities began to encompass more than the oversight of insurance companies, the Insurance Program was formed to house its insurance regulatory functions. As head of the Department, the Commissioner is statutorily responsible for the regulation of the business of insurance in this state; however, the day to day duties associated therewith have been delegated to the staff of the program.

TCA, Title 56 and Title 50, Chapter 6 establishes that the Insurance program's goal and primary function is to protect the insurance policyholders and enrollees through: the regulation of the solvency of insurance companies and health maintenance organizations and like entities; the regulation of the rates charged and policy forms used by insurance companies and health maintenance organizations; the regulation of the conduct of insurance companies, health maintenance organizations and insurance agents in the marketplace, the oversight of self-insured entities, surplus lines and workers compensation insurance; and the collection of revenue in the form of insurance premium taxes.

### **Mandated and Optional Services and Means of Providing Them**

The Financial Affairs service monitors the financial solvency of licensed insurance companies and health maintenance organizations (HMOs) in Tennessee. TCA, Title 56, Chapter 3 mandates that the financial statements of these companies are audited on a quarterly basis by the financial



analyst unit and that financial examinations are conducted every five years by the financial examination unit. If warranted, the service may recommend that the Commissioner place the HMO or insurance company under supervision, rehabilitation, or liquidation to further protect the policyholders.

TCA, Title 56, Chapter 7 mandates the Actuarial Rating service to review and approve the rate and form filings of property and casualty, life, and health insurance companies, all of which are required to file policy rates and forms with the Department.

TCA, Title 56, Chapter 6 mandates insurance agent licensing. Insurance agent licensing is the primary responsibility of the Agent Licensing service. All agents selling or soliciting insurance in this state must be licensed through the Department.

TCA Title 56, Chapter 7 mandates the Department to handle and mediate consumer complaints filed with the Consumer Insurance Services. Each year, approximately 4,500 complaints are filed with the Department by consumers against insurance companies and agents. Files are either mediated or investigated to the satisfaction of the Commissioner. This service may recommend that the Fraud Unit conduct a more formal investigation, which may result in the initiation of legal action against the licensee, such as license suspension or revocation, or civil penalties. This service also acts as an office to assist older Tennesseans as mandated by TCA 56-1-211.

TCA, Title 56 and Title 50, Chapter 6 concerns the regulation of self-insured and commercial workers compensation plans and insurers, and insurance companies offering surplus lines (unique, otherwise unavailable insurance products) which is conducted by the Self-Insurance/Workers Compensation/Surplus Lines service. Its functions are similar to the Financial Affairs and Actuarial Rating Sections with respect to these types of insurance. Additionally this service is responsible for processing regulations which require all licensed insurance companies and HMOs to maintain an agent located in the state to receive legal documents.

## **Performance Standards**

1. Complete financial analysis of financial statement of domestic companies within 90 days of receipt.
2. Complete financial examination of domestic companies, on a five-year basis, within 12 months of commencement.
3. Conclude insurance company licensing application review within 60 days of receipt of a complete application.
4. Approve or deny commercial and personal line rate filings within 30 days of receipt of a completed filing.

## **Performance Measures**

1. Financial statement analysis completed within 90 days of receipt.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
85%	100%	100%

2. Financial examination of domestic companies completed within 12 months of start date.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
85%	90%	100%

3. Complete insurance licensing application review within 60 days of receipt.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
75%	80%	90%

4. Rate filings review completed in 30 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
70%	80%	90%

### **Obstacles to Meeting Objectives and Delivering Services**

The duties previously handled by the satellite offices are now being handled in Nashville, thus increasing the workload of the Nashville employees.

Obsolete or non-interfacing software is currently being used throughout the program. These systems, including RBS and Access, are not integrated.

### **Means of Overcoming Obstacles**

The program is making plans to reallocate space for employees and move files to records management facilities as prescribed in the program's Records Disposition Authorities. Also, work is underway on the development of new software known as the Insurance Program Information System (IDIS) which will interface the retrieval of information from a new information system to be used throughout the program. If successful, this system may serve as a model to be used throughout the Department. The goal is to have this new system up and running by the beginning of 2004.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Recently the program became aware of possible federal grant monies related to the provision of health insurance, and it is researching the issue. In 2000, the program raised many of its registration and other user fees in order to cover the cost of personnel improvements.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Financial Affairs Section requires educational hours for many employees who are designated as Certified Financial Examiners (CFE) or Accredited Financial Examiners (AFE). The possibility of on-site training of these employees is being considered as a means of avoiding the unnecessary cost of training and travel.

## **Future Challenges and Opportunities**

The National Association of Insurance Commissioners (NAIC) Accreditation team will conduct a compliance audit in 2005. The team will be reviewing files for 2002, 2003 and 2004.

The program sees the development of a new comprehensive software system to meet its information system needs as both a challenge and opportunity. As with any new software system, it may take time to adjust, train employees, and work out any technical issues. However, the program is optimistic that such a system will improve its efficiency.

## **Performance Data Schedule**

Data for each performance measures will be released and kept within the appropriate file as that file is completed. For example, financial statement analyses are kept in an electronic log as each analysis is completed. This log is then reviewed by NAIC during the accreditation process. For rate filings, the Insurance Program submits a weekly report to the Commissioner that includes a summary of the rate filings under review. The performance data is available on an on-going basis.

## **Data Verification**

The program has procedures in place to monitor accuracy of data. Periodic reviews of data files will allow the program to verify whether the data contained in the electronic log or weekly reports match up with the data contained in the hard file copy. The program believes that the implementation of IDIS will greatly aid in data verification and allow electronic tracking of all of the performance measures.

## **335.05 Securities**

In conjunction with the United States Securities and Exchange Commission, the Securities Program is responsible for the regulation of the securities industry in this state. The Securities program is assigned to one of three major sections: Broker-Dealer/Agent/Investment Advisor Registration, Securities Registration, and Enforcement.

## **Statutory and Constitutional Objectives**

The Securities Program administers the Tennessee Securities Act of 1980 (TCA 48-2-101, et seq.), the purpose of which is to ensure investor protection by promoting and maintaining the integrity of the securities markets in Tennessee. Consistent with all other federal and state securities laws, the Act attempts to promote investor protection, market efficiency and capital formation through registration and ongoing disclosure requirements for issuers and industry members and through provisions which prohibit fraudulent and abusive practices in the conduct of all securities transactions in Tennessee.

## **Mandated and Optional Services and Means of Providing Them**

TCA 48-2-115 specifically vests the responsibility of the administration of the Tennessee Securities Act of 1980 with the Commissioner of Commerce and Insurance who in accordance with law has delegated the day to day activities of such administration to an Assistant Commissioner and the staff of the Securities Program.

TCA 48-2-109 states that it is unlawful for a person to conduct business in the state of Tennessee as a securities agent, broker-dealer, investment adviser or investment adviser representative unless the person is registered with the Tennessee Securities Program. Additionally, TCA 48-2-104 requires registration of securities for sale in this state with the program unless they are otherwise exempted. The program accepts reviews and maintains applications for these registrations, issues the registrations and collects the corresponding fees. Applications for broker-dealer, agent and investment advisor related registration are reviewed for business history, business practices, regulatory history and financial condition compliance with examination requirements. Program staff conduct merit reviews of applications filed for securities registration to determine the fairness and reasonableness of the offering.

TCA 48-2-116 mandates discretionary duties under the Act relate to authorities to promulgate rules, accept consumer complaints and make investigations to determine whether or not any person has violated or is about to violate the Act (TCA 48-2-118), conduct routine examinations (TCA 48-2-111), refer criminal matters to the Attorney General or appropriate district attorney general (48-2-123), seek injunctive relief, disgorgement and the appointment of a receiver (TCA 48-2-119), and institute disciplinary action against a registrant (TCA 48-2-112).

## **Performance Standards**

1. Examine applications for broker-dealer, agent, and investment securities registrations within 30 days of receipt.
2. Collect financial reports required to be filed by broker-dealers and investment advisors within 90 days of fiscal year end.
3. Examine securities registration applications, notice filings and exemptions within 20 days of receipt.
4. Prepare and issue a preliminary report recommending action within 30 days of receipt of each investor complaint.

## **Performance Measures**

1. Percent of applications examined within 30 days pursuant to Tennessee Securities Act.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
99%	99%	100%

2. Percent of Broker-dealer and Investment Adviser financial statements received within 90 days of fiscal year end.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
82%	82%	85%

3. Percent of Registrations examined within 20 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	95%	100%

4. Percent of complaint preliminary reports written within 30 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
53%	60%	65%

### **Obstacles to Meeting Objectives and Delivering Services**

The volume of application, amendment and termination filings is generally unpredictable except for the beginning of each registration period (calendar year) and the month immediately prior to the collection of the Professional Privilege Tax each June 1. A high volume of applications for initial registration can be expected each January and a high volume of termination of agent registrations can be expected each May in lead up to registrants' tax liability at each June 1.

Because its staff is small, absence of employees due to turnover or illness has a significant impact on the program's ability to meet its goals. This is true particularly in the examination service.

All of the enforcement remedies available to the program under the Act require the participation of attorneys either within the Department or in other agencies such as the Attorney General's office or through local district attorneys general. The program must have consistent, efficient and qualified legal representation to pursue enforcement of the Act. Staff attorneys are intricately involved in all aspects of the investigative process including the preparation of Orders of Investigation, subpoenas, Cease and Desist Orders and Consent Orders. They are responsible for the filing of administrative actions and the presentation of the program's cases before Administrative Law Judges.

### **Means of Overcoming Obstacles**

The staff addresses periodic instances of high volume of applications or public inquiry through team effort and ad hoc participation by the section supervisor. Job responsibilities of vacant examiner positions are administered by the Registration Section's supervisor in addition to normal duties. Forty-seven members of the Department of Revenue have been assigned view-only user accounts in the national internet based securities industry registration system in order to assist industry members in determining their potential professional privilege tax liability. Additionally personnel are cross-trained to the extent possible.

The Securities Program is working with the Administration Program to prevent the loss of existing legal staff to the private sector and to the extent possible, dedicate more of the Department's legal resources to the handling of securities related matters.

The program is constantly looking for ways to make district attorneys more aware of the work done by it and increase the probability that they will prosecute cases when the program makes a criminal referral.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program's budget is funded from current services revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Securities program is budgeted at about one-tenth of annual revenues of approximately \$14,000,000 of which approximately 40% is derived from industry registration fees collected by the Broker-Dealer Section. Additionally, the 70,000 industry participants registered through the Broker-Dealer Section represent potential annual revenue of \$28,000,000 from the Tennessee professional privilege tax. As the work of the Broker-Dealer service is conducted, primarily through commonly available electronic and internet-based applications, the overwhelming majority of the costs of operating the service are generated by employee salaries and normal overhead expenses.

The program will develop procedures to ensure that resources are used on investor complaints and investigations that provide the greatest opportunity for measurable enforcement results. Complaints and investigations that cannot result in an enforcement action need to be closed in a timely manner. Investigations need to be conducted in a timely manner and enforcement action taken when necessary. Personnel costs remain constant, but these changes would allow the program to get more enforcement value for the expenditures being made.

### **Future Challenges and Opportunities**

In January of 2004 the program will begin registration of Adviser Representatives pursuant to Public Chapter.

### **Performance Data Schedule**

Currently Broker-dealer/Agent/Investment Adviser Registration, Securities Registration and Enforcement prepare monthly statistical reports for the program's Assistant Commissioner. Performance data will be added to these reports beginning in fiscal year 2004.

### **Data Verification**

In Broker-dealer/Agent/Investment Adviser Registration, monthly statistical information is compiled from both external and internal sources and is monitored and verified by the members and the supervisor of the Broker-Dealer service. External sources include the national internet-based registration system which has electronic report producing capabilities, fiscal services within the Department and the Department of Treasury. Internal sources within the Securities program include the staff members of the Broker-Dealer and Securities Registration services.

In Securities Registration, receipt of registration filings may be verified by date stamps cash register receipt stamp numbers and bank deposit verification numbers. The daily cash receipt information is recorded in Access and Excel Databases, and this information is reconciled with cash register receipts, deposit statements from the Department's fiscal services and records in the Broker-Dealer/Agent/Investment Advisor service.

In Enforcement, the data will be verifiable in databases operated by the program and may also be verified by review and audit of reports and other documents maintained by the program.

### **335.06 Consumer Affairs**

Consumer Affairs is responsible for the protection of consumers from deceptive business practices through the administration and enforcement of the Tennessee Consumer Protection Act.

#### **Statutory and Constitutional Objectives**

Created under TCA, Title 47, Chapter 18, Part 50, the Program of Consumer Affairs' primary responsibility is to enforce Part 1 of the Tennessee Consumer Protection Act (TCA, Title 47, Chapter 18). The provisions of this portion of the Act were designed to protect consumers and legitimate businesses from unfair and deceptive acts and practices, encourage and promote fair consumer practices and promote consumer education.

#### **Mandated and Optional Services and Means of Providing Them**

Under TCA 47-18-5002 the Program of Consumer Affairs is mandated to enforce the provisions of Part 1 of the Consumer Protection Act, promulgate rules necessary to the performance of its duties, investigate consistent or persistent violations of Part 1, serve as the central coordinating agency for receiving consumer complaints, provide an annual report to the General Assembly on the activities of the program, assist any district attorney general in criminal prosecutions on behalf of consumers, promote consumer education, and inform the public of policies, decisions, and legislation affecting consumers.

A majority of the program's resources are devoted to the receipt, mediation and tracking of consumer complaints which are accepted in hard copy and electronically. In cases involving large scale violations, the program works with the Attorney General's Office and/or the appropriate district attorney general. The General Assembly is provided a written report of the program's activities annually.

In the area of consumer education the program has established and maintains an extensive website containing consumer-related information, tips and other resources. The program also provides consumer educational materials upon request, offers consumer workshops when possible, and issues press releases to alert Tennesseans to scams or other consumer relevant issues.

TCA 47-18-202 requires beauty pageant operators to register with the program and TCA, Title 47, chapter 18, part 3 requires health clubs to similarly register prior to beginning operation. In response to these requirements, the program has established programs to register and regulate these activities.

The mediation of consumer complaints is not mandated. However, in many cases, criminal or civil litigation is not practical and mediation of these matters has been found to be the most efficient and effective means for the program to help resolve consumer complaints.

### **Performance Standards**

1. Provide an initial response to consumer complaints within 15 days of receipt.

### **Performance Measures**

1. Percentage of consumer complaints in which a response was given within 15 days of receipt.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

One of the primary statutory objectives of Consumer Affairs is to provide education for Tennessee consumers on relevant issues. Over the last several years, the program has been able to provide this service very well in Middle Tennessee due to its physical presence here. The program's principal means of delivering educational services are personal appearances and media contacts. Telephone interviews with media from the corners of the State do not have the same impact as personal contacts.

The program is having difficulty processing the large volume of complaints it receives in a timely manner.

### **Means of Overcoming Obstacles**

The program is currently recruiting "Consumer Affairs Ambassadors" around the state. When the program wishes to have a presence at a particular event, it can call upon an "Ambassador" to represent it. This will give the program a means of having contacts around the state without the expense of its personnel traveling to the various events.

The program is involved with the Programs of Regulatory Boards, Insurance and Fire Prevention in a study of information system needs and opportunities in an effort to make its complaint handling and tracking systems more efficient.

### **Means of Maximizing Federal and Non-State Sources of Revenue**



The program's Director is currently investigating the availability of federal assistance earmarked for consumer education, and other consumer related issues. Currently, there is no other known source of revenue apart from state appropriations.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The majority of its current expenditures are in the form of personnel and fixed costs. Program staff as well as the staff of the Department's fiscal services section monitor expenditures monthly to ensure the program's budget is not exceeded.

### **Future Challenges and Opportunities**

The enhanced education service the program is instituting will make the program and the services it offers more known to more Tennesseans. As such, an increase in formal written complaints and telephone inquiries will be seen. While this will provide the program with the opportunity to assist more consumers, the increased load will tax the already overloaded resources.

### **Performance Data Schedule**

The program will report to the Commissioner on a monthly basis outlining the number of complaints both written and verbal, received and addressed by the staff. This report will also outline any current issues that should be addressed by the executive staff. The performance data will be available on the final day of each quarter.

Additionally, the program provides an annual report to the General Assembly detailing its performance for the previous year and goals for the coming year.

### **Data Verification**

Currently information gathered by the program related to consumer complaints is stored in the program's Access database and hard copy. The program will begin compiling information related to its consumer education efforts, utilizing this same software if possible. The information is reviewed at least monthly by the program's director and assistant director.

## **335.15 Real Estate Education and Recovery Fund**

### **Statutory and Constitutional Objectives**

TCA 62-13-208 created The Real Estate Education and Recovery Account in 1973. This statute requires the Real Estate Commission to maintain a minimum balance in the account of \$500,000.

This account is funded by individuals obtaining their original licenses as a real estate brokers, affiliate brokers or time-share salespersons. Each individual is assessed a fee of \$30 in addition to the original license fee. Should the balance of the account fall below the minimum statutory requirement, the Real Estate Commission may assess these licensees an additional fee of \$30, as a condition for license renewal (TCA 62-13-208(c)(2)).

### **Mandated and Optional Services and Means of Providing Them**

TCA 62-13-208(f) states “When any aggrieved person obtains a valid judgment respecting which recourse against the account is permitted under this section, upon termination of all proceedings including reviews and appeals in connection with the judgment, and all or any part of the judgment is unpaid after sixty (60) days, and such person has “exhausted all remedies at law” including, but not limited to, attachment, execution, levy and garnishment, to satisfy the judgment, such person may apply to the court in which the judgment was entered for an order directing payment from the account of the amount unpaid upon the judgment...” The liability of the account is limited to \$15,000 per transaction and \$30,000 in aggregate.

The Real Estate Commission may use funds generated by interest on the account, for educational and informational purposes for the benefit of its licensees, staff and the general public, as well as for research purposes to raise the standards of professional practice in real estate (TCA 62-13-107 and TCA 62-13-108).

### **Performance Standards**

1. Annually conduct a minimum of 15 educational seminars for licensees.

### **Performance Measures**

1. Number of seminars conducted.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	8	15

### **Obstacles to Meeting Objectives and Delivering Services**

Due to current economic conditions, the account’s investment returns may be inadequate to fund substantive educational programs.

### **Means of Overcoming Obstacles**

More efficient use of this fund is needed in efforts to educate licensees.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

This program is funded entirely with state dollars.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Not Identified

### **Future Challenges and Opportunities**

Not Identified

### **Performance Data Schedule**

Data related to applications for reimbursement from the account will be available on a quarterly basis.

### **Data Verification**

The Department's Fiscal Services section maintains all accounting records related to expenditures from this account for educational purposes.

## **335.16 Auctioneer Education and Recovery Fund**

### **Statutory and Constitutional Objectives**

The Auctioneer Education and Recovery Account (TCA 62-19-116) was created by the General Assembly in 1987. The statute requires the Auctioneer Commission to maintain a minimum balance in the account of \$150,000.

Individuals and Entities obtaining their original licenses as auctioneers, apprentice auctioneers or auctioneer firms fund this account. Each individual or entity is assessed a fee of \$50 in addition to the original license fee (TCA 62-19-116(c)(1)). This \$50 fee is also assessed upon the renewal of such licenses (TCA 62-19-116(c)(2)).

### **Mandated and Optional Services and Means of Providing Them**

TCA 62-19-116 (f) states "When any aggrieved person obtains a valid judgment respecting which recourse against the account is permitted under this section and all or any part of the judgment is unpaid after sixty (60) days after the date thereof, such person may, upon termination of all proceedings, including reviews and appeals in connection with the judgment, apply to the court in which the judgment was entered for an order directing payment from the account..." The liability of the account is limited to \$10,000 per transaction and \$20,000 in aggregate.

The Auctioneer Commission may use funds generated by interest on the account, to sponsor, conduct, or assist in conducting, education, prepare and disseminate information for the benefit of licensees and the general public and to employ an investigator to assist the commission (CA 62-19-116(l)(1)(A)(B) and (C)).

### **Performance Standards**

1. Annually conduct one educational seminar for licensees in each grand division of the state.

### **Performance Measures**

1. Number of seminars conducted.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3	3	3

### **Obstacles to Meeting Objectives and Delivering Services**

Due to current economic conditions, the account's investment returns may be inadequate to fund an investigator position and substantive educational programs.

### **Means of Overcoming Obstacles**

More efficient use of this fund is needed in efforts to educate licensees.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

This program is funded entirely with state dollars.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Not Identified

### **Future Challenges and Opportunities**

Not Identified

### **Performance Data Schedule**

Data related to applications for reimbursement from the account will be available on a quarterly basis.

## **Data Verification**

The Department's Fiscal Services section maintains all accounting records related to expenditures from this account for educational purposes.

## **335.04 TennCare Oversight**

The TennCare Oversight program performs oversight, examination and compliance monitoring functions related to Managed Care Organizations and Prepaid Limited Health Organizations providing services to the TennCare Bureau.

## **Statutory and Constitutional Objectives**

TennCare Oversight was established by Executive Order # 1 on January 26, 1995 to provide financial and operational oversight of the TennCare Program managed care providers and implement the requirements of federal law that all TennCare Managed care organizations be licensed as Health Maintenance Organizations by January 1, 1997.

TCA Title 56 establishes the day-to-day standards for oversight along with federal statutes and regulations, the National Association of Insurance Commissioners' (NAIC) Statutory Accounting Standards, the TennCare Waiver(s) and the TennCare contracts with the managed care organizations and prepaid limited health services organizations.

## **Mandated and Optional Services and Means of Providing Them**

Administration and enforcement of the Health Maintenance Organization Act (HMOs) (TCA, Title 56, Chapter 32) and the Prepaid Limited Health Service Organization Act (PLHSOs) (TCA Title 56, Chapter 51) with respect to TennCare managed care organizations require the program to:

- Act upon licensure applications

- Examine HMO's and PLHSOs at least once every four years; examinations conducted more frequently than once every four years are optional

- Review and analyze annual reports filed by HMO's and PLHSOs; quarterly reports and their review are optional under the statute but are required by the TennCare Contractor Risk Agreement

- Enforce network adequacy standards where such failures have been identified by the Department of Health or its designee, the TennCare Bureau

- Contract for an independent evaluation of the statutory and contractual compliance of the network adequacy and health benefit delivery standards.

- Enforce solvency standards where failures have been identified

- Process qualified requests for independent review of denied TennCare provider claims

- Review and either approve or disapprove material modifications to organization documents, contracts, evidences of coverage, rates, marketing materials, management

personnel, and any other item that would materially change the operations of the HMO of PLHSO

Administer and enforce the TennCare Prompt Pay Act found at T.C.A. 56-32-226

Provide support services to the TennCare Claims Processing Panel, which is a part of the TennCare Prompt Pay Act.

Additionally, the Administrators Licensing Provisions of TCA, Title 56, Chapter 6, Part 4, require the review of licensure applications, monitoring and enforcement of solvency standards, enforcement of operational standards, standards of professional conduct, and standards of competency for third party administrators.

Optional services performed by the program include: targeted reviews and examinations as requested by the TennCare Bureau and the Tennessee Department of Mental Health and Developmental Disabilities, reviews of TennCare Requests for Proposals (RFPs) and contracts, monthly reviews of medical loss ratios and medical fund target reports, and tests for compliance with prompt pay standards.

### **Performance Standards**

1. Approve or disapprove of material modification filings, certificate of authority applications and third party administrator license applications within 30 days of receipt of complete submission.
2. Process TennCare provider requests for independent review of partially or totally denied claims within 20 days of receipt.
3. Conduct examinations of the HMOs and PLHSOs participating in the TennCare Program each year.
4. Perform quarterly tests of compliance with the statutory claims processing timeliness standards for all TennCare HMOs and PLSHOs and for TennCare TPAs as required by the interagency agreement with the TennCare Bureau.

### **Performance Measures**

1. Percentage of material modification filings, certificate of authority applications and third party administrator license applications approved or disapproved within 30 days of receipt of complete submission.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	95%	95%

2. Percentage of independent review requests processed within 20 days of receipt.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	90%	90%

3. Conduct examinations of 25% of the HMOs and PLHSOs participating in the TennCare Program each year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
18%	25%	25%

4. Perform quarterly tests of compliance with the statutory claims processing timeliness standards for 100% of the TennCare HMOs and PLSHOs and for TennCare TPAs as required by the interagency agreement with the TennCare.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

Heightened performance requirements of regulated entities will necessarily dictate higher regulatory scrutiny, especially in regulating entities that are largely taxpayer funded. This increased regulatory scrutiny will create an expansion of detail on existing services and may create additional services. Added to this heightened regulatory climate is the impact of an under-performing financial market, which increases the pressure on the finances of the regulated entities to meet statutory financial standards of net worth and reserves.

These factors generate the need, not only for additional examiners and attorneys, but additional professionals with experience and education in the field of health insurance and managed care regulation. These needs are hindered by a limited pool of qualified professionals.

### **Means of Overcoming Obstacles**

Identify interested professional groups and encourage members to become interested in the field of regulatory practice in the legal and accounting professions. Recruit from those groups to hire full-time staff.

Retain the flexibility to contract with professionals/experts for limited periods of time on an as needed basis under the program's Delegated Purchase Authority.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The program is completely funded by interdepartmental revenue from the TennCare Bureau, which directly receives federal matching funds.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The program continuously evaluates its policies and procedures so that those policies and procedures that do not directly or indirectly enhance performance in meeting mandated services are amended or eliminated. The program also evaluates procedures and processes to identify cost efficiencies. For example, in order to reduce the time examiners spend in overnight travel status, where appropriate, the program requests TennCare managed care entities to submit documents to the program office for desk audit rather than conducting a field audit.

## **Future Challenges and Opportunities**

The General Assembly and the Governor of the State of Tennessee have determined that the current structure and operation of the TennCare program must change in order for the State to meet its budgetary and funding limitations. These changes will necessarily present future challenges to the kinds of entities regulated by this program that may seek to participate in a newly structure program. As these changes unfold, the program will by necessity have an increase in the number and frequency of regulatory actions, new applications for licensure, statutory interpretive questions and provider inquiries. These challenges will present opportunities for the TennCare program to play an important role in ensuring that current and new participants in the program are financially sound and can fulfill the obligations of their contracts with the State of Tennessee.

## **Performance Data Schedule**

Internal agency reporting will be established on a quarterly basis. External reporting will be done as part of the TennCare Program's annual report to the General Assembly. Internal agency reports will be available 30 days after the end of the quarter.

## **Data Verification**

The two section heads in consultation with the Assistant Commissioner will verify the data.

## **335.10 Regulatory Boards**

The Regulatory Boards Program is the largest program within the Department of Commerce and Insurance. It is comprised of 22 boards and commissions that are responsible for licensing and regulating over 215,000 individuals and entities in their professions and businesses.

## **Statutory and Constitutional Objectives**

The Program of Regulatory Boards, established under TCA, 4-3-1303, is required to house those regulatory boards listed under TCA 4-3-1304 and provide all administrative functions necessary to their operation except those vested by law in the board members. TCA Title 56, Part 3 sets forth in more detail the specific nature of those services to be provided by the program.

As noted, each board, commission and regulatory program has its own licensing statute, and thus its own statutory objectives not specifically covered in this document.



## **Mandated and Optional Services and Means of Providing Them**

The boards, commissions and licensing programs within the Program of Regulatory Boards are statutorily charged with responsibilities attendant to the licensing and regulation of individuals and entities engaging in various commerce, trades and professions in this state. Each board has its own licensing statute and its own unique set of responsibilities and licensing requirements, which may include: the administration of examinations, background checks, educational verifications and the completion of apprenticeships. The regulation of these professions is accomplished through on-site audits and inspections, the enforcement of continuing education requirements, and the processing of consumer complaints.

TCA 62-1-104 and TCA 62-1-105 establishes the Accountancy board which licenses and regulates certified public accountants, accounting firms, and existing public accounts. The board appoints the executive director. The Governor appoints the eleven board members. The board meets four times a year.

TCA 62-32-306 establishes the Alarm System Contractors Board, which certifies, licenses and regulates alarm systems contractors. This board is currently administered by the Private Securities Professions. The Governor appoints the five board members. The board meets monthly.

TCA 62-2-201 establishes the Architects, Engineers, Landscape Architects, Interior Designers Board which licenses and/or registers and regulates architects, engineers, landscape architects and registered interior designers. The Governor appoints the twelve board members. The board meets four times per year.

TCA 62-19-104 establishes the Auctioneer Commission, which licenses and regulates auctioneers, apprentice auctioneers and auction firms. The Governor appoints the five board members. The commission meets monthly.

TCA 62-3-101 establishes the Barber Board, which licenses, registers and regulates master barbers, barber technicians, barber instructors, and barber schools. The Governor appoints the five board members. This board meets monthly.

TCA 68-115-301 establishes the Boxing and Racing service area which licenses and regulates professional boxers, judges, managers, seconds, promoters, referees, timekeepers, and “tough man” events. Automobile racetracks are required to provide proof of insurance to this section in the program. An advisory committee, appointed by the Commissioner of Commerce and Insurance, recommends statute and rule changes. The Committee meets at least once a year.

TCA 46-1-108(e) establishes the Cemetery Advisory Board responsible for assuring that all private owned cemeteries abide by all statutes and rules and the examination and auditing of annual reports from cemetery companies and trustees of pre need trust accounts. The board, appointed by the Commissioner of Commerce and Insurance, recommends statute and rule changes. The board meets annually.

TCA 62-20-104 establishes the Collection Services Board which licenses and regulates all collection services business and location managers. The Board also issues business solicitor cards for solicitors employed by collection services. The Governor appoints the five board members. The board meets six times per year.

TCA 62-6-104 establishes the Board for Licensing Contractors which licenses and regulates all contractors building any project that exceeds \$25,000. There are more than 100 different types of licenses in this profession ranging from roofing to environmental specialties. The board appoints the Executive Director. The Governor appoints the nine board members. The board meets six times per year.

TCA 62-4-103 establishes the Cosmetology Board which licenses and regulates cosmetologists, aestheticians, manicurists, natural hair stylists, hair wrappers, instructors, cosmetology schools and shops. The Governor appoints the nine board members. The board meets once a month.

TCA 62-43-104 establishes the Employee Leasing Advisory Board which licenses and regulates employee leasing companies. This board is administered by the Assistant Commissioner's Office. The Governor appoints the five board members. The board meets four times per year.

TCA 62-5-201 establishes the Funeral Directors and Embalmers Board which licenses and regulates apprentice funeral directors, apprentice embalmers, funeral directors, embalmers, establishments and students. An Executive Director appointed by the Assistant Commissioner administers the Funeral Directors and Embalmers Board. The Governor appoints the seven board members. The board meets once a month.

TCA 62-37-116 establishes the Home Improvements Commission which licenses and regulates home improvement contractors for projects under \$25,000.00. The Executive Director who also administers the Contractors Licensing Board administers this commission. The Governor appoints the five board members. The board meets six times per year.

TCA 62-36-101 establishes the Geology Registration, which registers geologists and professional geologists. The Administrative Director who also administers the Land Surveyors Board administers the Geology Registration program. There is no board.

TCA 62-18-103 establishes the Land Surveyors Board which is responsible for licensing and regulating land surveyors. The Assistant Commissioner appoints the Administrative Director. The Administrative Director who also administers the Geology Registration program administers the Land Surveyors Board. The Governor appoints the four board members. The board meets monthly.

TCA 55-17-103 establishes the Motor Vehicle Commission which licenses and regulates manufacturers, factory branches, distributors, representatives, dealerships, salesmen, auctions and dismantlers. The commission appoints the Executive Director. The Governor appoints the sixteen board members. The commission meets four times per year.

TCA 63-10-501 establishes the Board of Pharmacy, which licenses and regulates pharmacists, distributors, research laboratories, and medical service representatives. The Governor appoints the seven board members. The board elects the Executive Director. The board meets six times per year.

TCA 16-3-901 establishes the Private Probation Services Council, which is in the formative stage and when implemented will license and regulate the probation companies who will monitor non-felony probationers in the state of Tennessee. This program presently is administered within the Assistant Commissioner's Office by the Administrative staff. The Private Probation Services Council has seven members appointed by the Tennessee Judicial Conference, President of

Tennessee General Session Judges Conference and Chief Justice of the Supreme Court. The Council will generally meet quarterly and otherwise as needed.

TCA 62-35-129 establishes the Private Protective Services Advisory Committee, which licenses and regulates unarmed security guards, armed security guards, security companies, and certified trainers. The Assistant Commissioner appoints the Executive Director. The Commissioner of Commerce and Insurance appoints the seven members of the committee. The Commissioner calls meetings as needed, generally four to six times per year.

TCA 62-26-301 establishes the Private Investigation and Polygraph Commission which licenses and regulates polygraph interns, polygraph examiners, private investigators, private investigation companies, employees, offices and branches. The Assistant Commissioner appoints the Executive Director. This commission is currently administered by the Private Securities Professions. The Governor appoints the nine commission members. The commission meets monthly.

TCA 62-39-201 establishes the Real Estate Appraiser Commission, which licenses and regulates certified residential appraisers, general appraisers and appraiser trainees. An Administrative Director appointed by the Assistant Commissioner administers the board. The Governor appoints the nine commission members. The commission meets monthly.

TCA 62-13-201 establishes the Real Estate Commission, which licenses and regulates timeshare sales people, affiliates, brokers, timeshares, firms and groups. An Executive Director appointed by the commission administers this program. The Governor appoints the nine board members. The commission meets monthly.

Under TCA, Title 56, Part 3 the position of Director of the Program of Regulatory Boards (the working title is Assistant Commissioner) is established and charged with acting as the chief administrative officer for each board. In this capacity the Director is statutorily responsible for: employing legal, investigative and other administrative staff; providing office space; maintaining a central filing system for official records; establishing a license renewal system; collecting and reconciling license fees; enforcing regulations promulgated by the boards issuing disciplinary reports and any other duties as prescribed by the Department's Commissioner or otherwise by law.

The Director of the program meets many of the statutory mandates noted above via a central computer system that is utilized by all of the boards to issue licenses and track consumer complaints, inspections, audits, disciplinary actions and continuing education hours. The use of a single system to provide these functions is immensely more efficient than separate systems for each of the 22 programs. Centralized legal, revenue reconciliation and investigative units provide a similar benefit by allowing these respective functions to be performed by a small number of cross-trained individuals rather than each program having its own set of employees to perform these mandated duties.

## **Performance Standards**

1. Issue licenses within 60 days of receipt of a completed/approved application.
2. Resolve complaints within 180 days.
3. The ratio of the number of complaints against licensees to the number of licensees.

## Performance Measures

1. The percentage of licenses issued within 60 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	75%	100%

2. The percentage of complaints resolved within 180 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	73%	85%

3. The complaint to license ratio.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	1 to 75	1 to 100

## Obstacles to Meeting Objectives and Delivering Services

The volume of applications for licensure and the total number of licensees regulated by the program increases annually, primarily in relation to increases in the State's population. However specific social events can also trigger large fluctuations in those numbers. For example, since the terrorist attacks of 9/11, there has been a tremendous increase in the number of applications for licensure in the security related industries and the processing of applications for security guards, alarm system contractors and private investigators is particularly labor intensive as they require the submission and analysis of fingerprint information for criminal background checks.

With the increase in the total number of number of licensees regulated, there has been a corresponding growth in the number of consumer complaints filed, requiring additional legal and investigative work in order to resolve those complaints.

The program's computerized licensing system is over 10 years old. It is not user friendly and requires substantial training of new employees in its use. It does not have imaging capabilities or cost effective Internet licensing capabilities, both of which would greatly improve program efficiency.

## Means of Overcoming Obstacles

The security industry boards are in the process of implementing procedures to allow applicants for licensure to submit fingerprint information electronically, reducing processing time in some instances from 90 to 10 days.

Where possible, the program has made efforts to see that each board employee is cross-trained to address the fluctuation in the daily workflow. Should an employee be absent from work or an employee's workload increase dramatically, co-workers are usually able to provide assistance.

The program's legal section has adopted an informal system of dispute resolution to address the increase in consumer complaints, which in many cases makes costly formal disciplinary hearings unnecessary.

Over the course of the past year the program has worked with other programs in the Department of Commerce and Insurance as well as with the Departments of Health and Financial Institutions on a study of the information system needs of these agencies, which have similar licensing and regulatory functions. The three-year information systems plan for Commerce and Insurance provides for the eventual replacement of the program's current system.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

License fees primarily fund the boards, commissions and licensing programs within the program. Currently there are no known sources of federal funding.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Expenditures are monitored within the program on a monthly basis. Any request to expend revenues must be approved by the program's Administration Office prior to such expenditure. Both in-state and out-of-state travel requests are carefully scrutinized for their necessity need.

As noted above, many of the program's services have been centralized to avoid unnecessary duplication.

This program works with the Department's internal auditor and the State Comptroller's auditors to ensure that all revenues/fees collected are efficiently expended. Under TCA 4-29-121, boards not collecting fees sufficient to pay their operating costs are subject to termination by the General Assembly.

### **Future Challenges and Opportunities**

As previously mentioned, Regulatory Boards faces an ever-increasing number of applicants seeking licensure. However, new computer technology has allowed the program to keep pace with an increasing workload with little expansion of its employee base. The program is working towards the use of Internet licensing, which is expected to further increase efficiency and customer convenience.

The program is currently making some licensing information available via web pages and is constantly looking at new ways to use the Internet to disseminate information to licensees, candidates for licensure and consumers.

### **Performance Data Schedule**

Regulatory Boards will report licensing information on a quarterly basis beginning September 30, 2003. Due to the 180 day standard for complaint resolution the program will initially report

complaint information on a biennial basis beginning January 1, 2003. The performance data will be available on January 31<sup>st</sup> and July 31<sup>st</sup> of each year.

### **Data Verification**

The licensing information used in the performance data schedule is verified through reports developed by the Department's Information Systems (IS) office. The number of licenses issued and complaints received may also be obtained through an IS report. The program is currently working on a software program to track the length of time consumer complaints are open.

## **911 Wireless Communication**

### **335.08 911 Emergency Communications Fund**

The Tennessee Emergency Communications Board (TECB) is administratively attached to the Department of Commerce and Insurance and comprised of nine members appointed by the Governor for a fixed term. An Executive Director who serves at the pleasure of the Board directs the daily operations. The Board also administers the state's E-911 Emergency Communications Fund, a fund separate from the state's General Fund. The Board operates at no cost to the General Fund. Financial support for all the Board's activities is made possible through a monthly service fee assessed on all cellular phone users.

### **Statutory and Constitutional Objectives**

The TECB was established by the General Assembly in 1998 to serve as the state's authority for the implementation of wireless E-911 requirements as put forth by the Federal Communications Commission (FCC) in docket 94-102, Order 99-96 and all subsequent Orders. The TECB was also established to provide financial oversight for the state's 100 Emergency Communications Districts (ECDs). ECDs are statutorily defined municipalities and deliver 911 services at the local level. The Statutory authority for the Board is found at TCA, 7-86-302. The powers and duties of the Board are found throughout TCA, Title 7, Chapter 86, Part 3.

### **Mandated and Operational Services and Means of Providing Them**

In accordance with TCA, Title 7, Chapter 86, Part 3 the Board is mandated to: develop a plan and implement wireless E-911 for the state; provide financial oversight of the state's CDs; develop a plan and implement E-911 landline service for those ECDs not initiating E-911 service; serve as the state's authority on all 911 issues and matters in disagreements between two or more entities of government; act on behalf of the state's ECDs in requesting E-911 service and regulatory matters; approve increases in landline 911 rates above local statutory limit; supervise financially-distressed ECDs; and provide cost recovery to ECDs and cellular companies for E-911 deployment cost.

The TECB establishes all terms and policies for the distribution of monies from the state's E-911 Fund. Distributions are limited by law to: entitlement funding for ECDs; cost recovery to ECDs

and cellular companies for E-911 implementation and maintenance costs; grants and other financial assistance to ECDs to support or advance E-911; and operational costs of the Board.

In implementing E-911 service the Board's staff works daily with landline and cellular telecommunications providers, local ECDs and the FCC. The Board works with local ECDs to ensure that dispatch equipment is technologically capable of receiving E-911 data as required by the FCC. The Board directs the location and schedule for implementation of E-911 by the cellular industry. The FCC at the recommendation of the Board conducts E-911 regulatory enforcement actions.

The Board provides financial oversight of the state's 100 ECDs. This is accomplished by reviewing all ECDs' annual budgets and audits, as well as establishing the state's acceptable uses of 911 revenues. The Board may also conduct rate hearings to review, and decrease or increase local 911 rates assessed on residential and business landlines where appropriate.

### **Performance Standards**

1. Establish wireless E-911 Phase I service (getting the call-back number) in all Tennessee counties.
2. Establish wireless E-911 service Phase II service (getting the geographical location of the caller) in all Tennessee counties.

### **Performance Measures**

1. The number of counties with E-911 Phase I service.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
83	87	95

2. The number of counties with E-911 Phase II service.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	82	95

### **Obstacles in Meeting Objectives and Delivering Services**

Success in attainment of E-911 Phase II service could be impeded if the FCC grants any waivers or 'Stays' of its deployment Orders for cellular carriers, thus delaying implementation.

ECDs are beginning to encounter a reduction of revenues due to two factors. The first is the national trend, shared by local ECDs, of decreasing landlines for business and residential use. The fees collected by ECDs from telephone lines in its jurisdiction are the historical bulk of funding for all operations. The second is due to a reduction in local government contributions for dispatching services. An increasing number of cities and county governments are reducing their payments to local ECDs for dispatching services due to local government budget shortfalls. Assisting local ECDs in maintaining good financial health is an increasing challenge.

## **Means of Overcoming Obstacles**

The TECB has implemented policies to encourage carrier deployment through cost recovery. For carriers meeting their FCC imposed deadlines in place as of Jan. 1, 2003, the TECB will provide 100% reimbursement of carrier costs if it meets that schedule. If the FCC extends that deadline or the carrier fails to meet it, the TECB will only provide 50% reimbursement of the carrier's costs.

To address ECD financial challenges, the TECB will continue to explore the opportunities for financial assistance (grants) to economically struggling ECDs. The TECB staff will more closely scrutinize ECD budgets and audits than normally required by the TECB and Comptroller of the Treasury. The TECB staff has also become more aggressive in ensuring accurate collections of wireless carriers, and remittances of Competitive Local Exchange Carriers (CLECs).

## **Means of Maximizing Federal and Other Non-State Sources of Revenues**

During the past six months, new sources of grant funding are becoming available to state and local 911 organizations to enhance homeland security. The TECB staff will begin seeking such funding for the TECB and ECDs. Federal legislation is expected to pass this year to establish a dedicated 911-homeland security grant program for states and local 911 organizations.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The TECB will deny cost recovery to carriers assessing their own E-911 cost recovery on cellular customers by embedding such recovery in rates or other hidden charges. The Board recently eliminated an assigned state vehicle it deemed underutilized.

## **Future Challenges and Opportunities**

Regulation and technology related to E-911 evolves almost monthly. It presents a great challenge to state boards and local ECDs to quickly adapt to this ever-changing dynamic, given the inherent slower pace and limited resources of state and local government.

The introduction of E-911 technologies will increase the number of lives saved, improve long term quality of life for injured victims in emergencies, and assist public safety agencies fostering safer communities.

In the near future, technology will become available to provide all public safety agencies with real-time incident data simultaneously. The 911 center will evolve from a simple call and dispatch operation, to a more sophisticated information hub. Such technology is already in use by the military in battlefield information technology, as well as on an experimental basis in some cities interfacing Intelligent Transportation Systems, medical care facilities and public safety agencies.



## **Performance Data Schedule**

The TECB will compile quarterly performance measures beginning September 30, 2003. The performance data will be available on the final day of each quarter.

## **Data Verification**

Counties with E-911 service will be verified through contact with the local ECDs and/or the telephone service carriers for those districts. Copies of grants issued, district budgets and audit reports will be kept on file at the Board's offices.

## **Fire Prevention**

### **335.03 Fire Prevention**

Fire Prevention, also known as the State Fire Marshal's Office, was established by the Tennessee General Assembly in 1923. The four services within this program are:

- Administrative Services
- Bomb and Arson
- Codes Enforcement
- Electrical Inspections

## **Statutory and Constitutional Objectives**

Under TCA 68-102-101 and 68-102-102, the Commissioner, as State Fire Marshal, is charged generally with the duty of preventing and investigating fires; the storage sale and use of combustibles and explosives and the suppression of arson. The Commissioner is also responsible for the enforcement of laws related to the building and electrical codes; the construction, maintenance and regulation of fire escapes; the installation and maintenance of fire alarm systems and fire extinguishment equipment. The program is committed to enhancing the quality of life safety for the citizens of Tennessee and the protection of their property through fire prevention, education, investigation, and enforcement.

## **Mandated and Optional Services and Means of Providing Them**

Administrative Services is the administrative support of Fire Prevention with responsibilities, which include budgeting, purchasing, and personnel management. The Section also has the unique responsibilities of fire prevention education, analysis of fire loss statistics (TCA 68-102-132), and fire and building inspector certification (TCA 68-102-143, TCA 68-120-113). The Permits and Licenses Unit of the Section is responsible for the licensure and regulation of the fireworks (TCA 68-104-101 et seq.), fire extinguisher, liquefied petroleum gas (TCA 68-135-101 et seq.), blasting (68-105-101 et seq.), and sprinkler system industries (TCA 62-32-104). The Unit

also processes electrical permits and inspections as well as manufactured home anchoring permits and inspections (TCA 68-126-406).

TCA 68-102-101 and TCA 68-102-127 requires the law enforcement arm, Bomb and Arson services, of the Program of Fire Prevention to be responsible for the investigation of significant arson crimes or criminal misuse of explosives. The 25 special agents assigned to the Section work in cooperation with other Federal/State and local agencies to ensure those who commit such crimes are held accountable for their criminal acts which often result in death and/or serious injuries.

TCA, Title 68, Chapters 102 and 120 set forth the guidelines for which the Codes Enforcement service has the responsibility of enforcing building and fire codes for the purpose of protecting the citizens of Tennessee from injury or death, providing handicapped accessibility to public facilities, and enforcing the equitable restroom act, through plans review and inspections. Additionally, the Section is responsible for State administration and enforcement of the Uniform Standards Code for the Manufactured Home and Recreational Vehicles Act and the Tennessee Modular Building Act. As an optional service, Codes Enforcement also provides courtesy building inspections for other Tennessee State agencies for those agencies' regulatory purposes. Examples include daycares for the Department of Human Services and prisons for the Department of Corrections.

TCA 68-102-143 establishes the guidelines for electrical inspections. The Electrical Inspections service is responsible for administration and enforcement of the State Electrical Inspection Program. The main purpose of this inspection program is to ensure that all electrical work performed in the State of Tennessee is accomplished in a safe and uniform manner and that manufactured homes are properly setup and anchored (TCA 68-102-147). One hundred and five contract employees (Deputy Electrical Inspectors) perform the inspections for this service.

### **Performance Standard**

1. Reduce the number of incidents involving a fire-related death in Tennessee.

### **Performance Measure**

1. The number of incidents that involve a fire death in Tennessee.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
105*	110	105

\*Based on the most current data provided by the Department of Health.

### **Obstacles to Meeting Objectives and Delivering Services**

The education of the public on fire safety behaviors and fire prevention falls on fire departments and the State Fire Marshal's Office. Seventy percent of Tennessee's firefighters are volunteers, and may not have public education programs (personnel or curriculum) available, and the State

Fire Marshal's Office has only one position dedicated to fire education, therefore the public is provided with a deficient amount of fire safety educational opportunities.

Data from death certificates from the Tennessee Department of Health show that children under the age of five and seniors sixty and above are the most vulnerable for fire death. Currently, there is currently not adequate means to target these two areas for fire prevention education.

The State Fire Marshal's Office has a video library that contains both videos and equipment that are outdated and often fail because of age related problems. Therefore, this valuable tool is quickly becoming useless in training purposes for both the State and fire departments.

Inadequate public understanding of the importance of installing and maintaining a working smoke detector is indicated by 984 residential structure fires where no smoke detectors were present in the facility (Tennessee Fire Incident Reporting System (TFIRS) data 1999-2000). Of these instances, 54% involved at least one fatality.

Only 46% of fire departments reported to the Tennessee Fire Incident Reporting System (TFIRS) in 2002. This information is utilized to compile fire loss statistics for the State of Tennessee.

With an event of significant terrorism in the State, Bomb and Arson's resources could be diverted for a substantial period of time away from domestic fatality crimes of arson. Additionally, the unavailability of local arson expertise may prevent or delay the Section from being notified in a timely manner, thus allowing the scene to become contaminated.

All services within the program are faced with a lack of training and office space.

### **Means of Overcoming Obstacles**

The Department has formed a Fire Mortality Prevention Task Force the objective of which is to develop a comprehensive statewide strategy designed to reduce the incidents of fire deaths in Tennessee.

The Public Fire Information Officer (PFIO) will be required to teach fire prevention/education classes to the public, including schools, businesses and private industry. Also the PFIO will continue to partner with the TN Public Fire and Life Safety Educator's Association, Risk Watch and other similar fire safety organizations to increase the program's ability to meet public fire education needs.

The partnership that the program has with Risk Watch will be invaluable in that smoke detectors will be distributed to six counties in Tennessee during October, 2003. Shelby County is one of the counties that will receive detectors. The detectors are going to be distributed to school children as well as their grandparents, thus targeting the predominant at risk groups. The program will continue to seek organizations that are willing to donate smoke detectors for distribution in Tennessee.

The Public Fire Information Officer is seeking organizations that distribute fire safety/education videos for little or no cost. For example, the United States Fire Administration periodically sends a copy of newly released fire safety videos to fire departments and each State Fire Marshal's Office.

With the passage of Public Chapter 312 in 2003, fire departments in Tennessee will now be required to register with the Department. This will allow the Department to better track the number and location of fire departments in this state, and educate them of the benefits and ease of reporting data to TIFRS.

The Bomb and Arson service will continue pro-active initiatives to diminish the likelihood of Tennessee being perceived as an unprotected target rich environment for terrorists. This service will also continue to provide training to local fire service and law enforcement officials to enhance their ability to recognize incendiary fires.

Utilization of the Tennessee Fire Services and Codes Enforcement Academy could increase opportunities to provide training at no cost or reduced cost to allow for more training in areas where needed.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Administrative Services will search for any grants that are available for fire prevention efforts that are based at the state level. High risk counties for fire deaths in Tennessee will be identified and targeted for a smoke detector/battery distribution; as well as seeking funding for a statewide distribution.

Bomb and Arson has received another multi-year Byrne Grant in conjunction with its major role in addressing violent crimes in Tennessee. These federal matching funds will be used to maintain the Special Operations Response Team (SORT) within the Section which offers the only state-wide rapid response capability to bombings and crimes of arson within the Tennessee Arson Intervention and Mitigation Strategy records management system (AIMS 2000). Additionally, the unit is receiving other terrorist response related equipment and supplies through the Office of Homeland Security.

The program will see that monies received from HUD are directed appropriately to the State Administrative Agency program to ensure that the program is adequately staffed to aid in consumer complaint resolution regarding manufactured housing.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Educational videotapes in the program's library are reproduced from a master and copies sent to requesting parties. Requesting parties are required to return tapes upon completion of use, keeping video library costs as low as possible.

Some Training of the non-TFIRS departments can now be done at the Tennessee Fire Service and Codes Enforcement Academy. Up to 20 departments may be trained at one time in the Academy's computer lab. This facility will allow training of local fire personnel at a central location, rather than requiring the TFIRS coordinator to travel to individual fire departments.

The Bomb and Arson Section maintains continuous dialogue with counterparts in the FBI, TBI, ATF and TEMA to ensure the sharing of equipment and the avoidance of duplication of efforts where jurisdiction overlaps.

## **Future Challenges and Opportunities**

To ensure the continuity in educating the public about fire safety behaviors and the risk of fire death, the program must maintain and continue to seek partnerships with groups and associations that share its objective of reducing the number of incidents involving a fire-related death in Tennessee.

With only 46% of fire departments reporting to TFIRS in 2002, persuading the remainder to join will be quite a challenge. Over 350 fire departments will have to be trained in order to reach 100% participation.

As traditional blueprints become less commonplace, pursuit of system for electronic submission and storage of building plans will become necessary.

The complexity and demands placed on many positions in the program have increased significantly during the past few years. Thus, unless salary adjustments are implemented, it will become more difficult to maintain a well trained and qualified work force.

## **Performance Data Schedule**

The program receives the fire death data from the Tennessee Department of Health (TDH). However, complete data is not available to the Department until after June 30 of the previous year (2002 data would not be available until June 30, 2003.) The performance data will be available within 30 days of the Division's receipt of the TDH file.

## **Data Verification**

Fire death data is compiled from death certificates collected by the Department of Health and will be verified through the examination of those certificates by the program's Statistical Analyst.

## **335.07 Fire and Codes Enforcement Academy**

The Academy was established in 1996 and is located in northern Bedford County. Its campus consists of 15 buildings on a 330-acre site. The buildings include nine "smart" classrooms, computer lab, mock courtroom, fire protection and building materials testing labs, computer controlled fire training props, 104 bed dormitory, and a 250 seat dining hall. The Academy officially opened on October 22, 2002 however some preliminary classes were taught on-campus in August 2002.

## **Statutory and Constitutional Objectives**

TCA 68-102-201 states that the purpose of the Academy is to provide effective training to all firefighters, fire and building code enforcement personnel and other related service professionals in the State of Tennessee.

## **Mandated and Optional Services and Means of Providing Them**

TCA 68-102-201 mandates that the Tennessee Fire Service and Codes Enforcement Academy be established within the Department of Commerce and Insurance. This section further requires that the Commissioner of the Department provide adequate staff to serve the needs of volunteer, career, paid-on-call and other firefighters and code enforcement officials within the State of Tennessee. Furthermore, the Commissioner is responsible for developing a suitable curriculum to meet the purpose of the Academy, which is noted above. The Academy is required to teach current methods and practices and develop new methods and practices in the fields of firefighting, fire and building code enforcement, fire prevention, public fire safety education, fire investigation and related subjects.

As an optional service, the Academy, for a fee, makes its facilities available to groups such as the U.S. Forest Service, U.S. Bureau of Alcohol, Tobacco and Firearms, and the Tennessee Propane Gas Association. This use provides a means of generating revenue, marketing the Academy's training programs, and facilitating emergency training for agencies outside the Academy's primary mission.

## **Performance Standards**

1. Provide student contact hours to fire service and other emergency first responders.
2. Provide student contact hours to code officials and other construction industry professionals.

## **Performance Measures**

1. The number of student contact hours delivered in the Fire Service Program over twelve months.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
105,200	115,500	127,000

2. The number of student contact hours delivered in the Codes Enforcement Program over twelve months.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
6,195	6,850	7,550

## **Obstacles to Meeting Objectives and Delivering Services**

With the Federal consolidation of terrorism training funding, the Academy, on September 30 of 2003, will lose an \$80,000.00 federal grant for training local fire departments in the response to terrorist incidents.

## **Means of Overcoming Obstacles**

Every attempt will be made to mitigate the loss of five instructors through the use of contract trainers, intensive course scheduling and some overtime work. Should this prove inadequate, it may be necessary to reduce the number of courses offered.

The loss of the research librarian will likely delay the opening of the Academy library. However, once a substantial portion of the technical books have been ordered and received, the library will be opened for student use on at least a limited basis.

The Academy is currently working with the Tennessee Department of Homeland Security and the Tennessee Emergency Management Agency to recover some of the \$80,000 in terrorism training funds that will not be received from the Federal government in Fiscal Year 2003 – 2004.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Academy places a priority on staying abreast of Federal and non-state funding sources. This is achieved through the monitoring of professional journals and websites, attendance at professional meetings and informal networking with other peer training academies.

The Academy foresees a significant potential for revenue generation from non-governmental sources such as construction design professionals, industrial fire brigades and terrorism response training for private sector companies. A marketing effort targeting these groups will be executed during FY 2003 – 2004.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Academy is subject to an external audit by the State Comptroller's Office on a two-year cycle. Internal controls are in place that establish purchasing levels requiring Executive Director approval, random audit of long distance telephone calls and regular reviews of overtime hours used.

Classes will only be offered if a minimum number of students express an interest in attending. This minimum is established based on the cost to hold the respective class.

Several Academy services are currently out-sourced including security, housekeeping, food service and some instruction. Until the Academy is able to operate at full capacity, these services can be provided in a more cost efficient manner through outsourcing rather than utilizing state employees.

## **Future Challenges and Opportunities**

Future challenges include meeting the demand for training brought about by population growth and homeland security concerns. However, issues of homeland security also potentially open a market that was not previously contemplated and that the Academy is uniquely poised to address.

## **Performance Data Schedule**

Performance data for student contact hours is collected throughout the fiscal year in a cumulative fashion. At the close of the fiscal year, the total number is used for comparison to the projected target in order to determine overall success of the program. The performance data will be available 45 days after the end of each fiscal year.

## **Data Verification**

The Academy will establish procedures to audit 10% of the classes delivered to ensure that the number of student contact hours being reported is accurate. Student rosters for each class held are maintained in the Academy's student database.

## **335.28 Fire Fighting Personnel Standards and Education**

Established in 1974, the Tennessee Commission on Fire Fighting Personnel Standards and Education is administratively attached to the Department of Commerce and Insurance which serves as the Commission's fiscal agent. The Commission is composed of nine members appointed by the Governor.

## **Statutory and Constitutional Objectives**

Under TCA, Title 4, Chapter 24, the Commission's major statutory objectives are to certify fire training instructors and fire training educational programs, and to administer a supplemental income bonus prescribed by TCA Title 4, Chapter 24, Part 2.

## **Mandated and Optional Services and Means of Providing Them**

Under TCA, Title 4, Chapter 24, the Commission is responsible for: (1) Approving the training programs offered by county and municipal fire departments; (2) Recommending and approving curricula for advanced courses and seminars in fire science, fire engineering and training in institutions of higher education or other state supported schools and certifying the instructors thereof; (3) Establishing classifications based on training and education for all fire fighting personnel, both paid and volunteer, who desire to be certified and successfully pass the examination for the various classifications given by the Commission; (4) Preparing a standard



examination to test the levels of training and education of applicants for certification; and (5) Administering a supplemental income bonus provided to professional firefighters completing certain minimum hours of training.

These services are provided by the office staff and six contracted field representatives spread throughout the state.

### **Performance Standards**

1. Increase the number of written certification examinations administered to Tennessee firefighters by 20% each year.

### **Performance Measures**

1. The number of certification examinations administered.

Actual FY (2002-2003)	Estimate (2003-2004)	Target (FY 2004-2005)
1,728	1,990	2,388

### **Obstacles to Meeting Objectives and Delivering Services**

Since participation in both programs is strictly voluntary, the Commission must demonstrate to city officials, fire department administrators, and firefighters the benefits of pursuing certification. As the Commission is successful in its goals, it stretches its current resources for providing services. It is imperative that the Commission provide excellent customer service in order to maintain fire service participation.

Customer service includes periodic on-site visits to all the fire departments participating in the program to offer assistance in the development of their training programs. The Commission also administers examinations at fire departments in order that fire service personnel are available to make emergency responses; otherwise fire departments would have remove firefighters from service to take exams. The Commission makes on-site visits to fire departments that are not enrolled in the Commission's programs in order to enlist their participation. It is also critical to provide results of certification examinations in a timely manner because many departments base promotions, raises, and job retention on firefighters achieving certification.

### **Means of Overcoming Obstacles**

The Commission is meeting with fire departments which are currently not enrolled in the certification program to recruit them into the program. Additionally, customer service is stressed in order to meet the needs of the departments currently enrolled in the program and ensure their continued participation.

The Commission is working closely with the Tennessee Fire Service and Codes Enforcement Academy to ensure its classes meet the standards established by the Commission. Through this partnership, the Commission can certify firefighters completing training through the Academy.

The Commission conducts meetings across the State in order to hear the concerns and recommendations of the fire service regarding certification and salary supplement programs. This input is utilized to improve the programs, to better meet the needs of the fire service, and increase participation.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Currently the Commission is not aware of any Federal grants or other sources of non-state revenue available for its programs. Additionally, the Commission has received a legal opinion that it did not have the statutory authority to accept and administer grants; therefore, the Commission is pursuing legislation to amend its powers granting it such authority.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Commission employs six part-time Field Representatives to work with fire departments in their area. These employees are contract vendors who are obtained through the competitive bidding process.

The Commission is developing a web page and an e-mail list to disseminate information to the fire service in order to reduce postal costs.

The Commission strives to conduct its business in one meeting day, whenever possible, to avoid extra expenditures for travel costs and per diem payments to its members.

### **Future Challenges and Opportunities**

A major ongoing challenge of the Commission is to keep its certification and training standards on par with the current national standards. This is an ongoing process which is very labor intensive.

The Commission is joining national organizations of other States' certification agencies such as the Mid-Atlantic Association of State Fire Commissions in order to develop a dialog and exchange of information on more efficient and effective means of accomplishing the goals.

When a Standard changes, the Commission must revise both its practical and written examinations. The practical examination must be revised to include any new skills which must be incorporated into the examination, deleting any obsolete skills, and revising those which have been amended. The Commission's practical examinations must include evolutions for every skill which requires the firefighter to demonstrate an objective. The written examinations must also be revised in a similar manner to ensure the entire standard is covered. Each question must be validated to the reference material and the Department must ensure each question meets the requirements established by the Commission for appropriate test items. Once these tasks are complete, a matrix must be completed that shows each objective of the appropriate national

standard is addressed either in the practical and/or written examinations identifying them by item numbers.

### **Performance Data Schedule**

The Commission prepares an examination analysis on its written certification examinations at least once per year. This analysis indicates the number of examinations administered for each level of certification, the number of personnel that passed, the number of personnel that failed, and the passing percentage. The salary supplement to firefighters is paid once per year with a report prepared at that time. The performance data will be available on the last day of the month following the quarter for which it is collected.

### **Data Verification**

The certification data is collected after each examination is administered. The reports are compiled at least annually depending upon the data collected. This data is easily verifiable because the Commission keeps all examinations administered for a period of three years.

Salary supplement data is submitted by fire departments on an annual basis and is reviewed by Commission staff to ensure compliance and eligibility. The Commission conducts random audits of a minimum of 10% of participating fire departments to ensure that all requirements of the Commission were followed by the participants.

# **Department of Financial Institutions**

## **General Agency Information**

The Department of Financial Institutions is responsible for monitoring the safety and soundness of all state-chartered depository financial institutions and for ensuring that licensed non-depository financial institutions comply with governing laws and regulations. There are regional offices located in Knoxville, Jackson, Memphis, Chattanooga and Nashville, Tennessee.

The Department is totally self-funded, with some funding coming from the Banking Fee assessed for the regulation of state-chartered banks (reflected in the Budget document as Appropriations). The remainder of the Department's funding comes from regulatory fees collected from financial institutions under the Department's jurisdiction (reflected in the Budget document as Current Services revenue).

## **336.00 Financial Institutions**

### **Statutory and Constitutional Objectives**

TCA 45-1-102 provides general statutory purpose and objectives for the Department.

TCA 45-2-1601 and TCA 45-2-1602 provide the statutory mandate for the supervision and examination of state banks, savings banks, and trust companies.

TCA 45-3-812 provides the statutory mandate for the supervision and examination of Savings and Loan Associations.

TCA 45-4-1001 and TCA 45-4-1002 provide the statutory mandate for examinations of state-chartered Credit Unions.

State Law provides statutory guidance for the regulation and examination of the following:

- Industrial Loan and Thrift Companies in TCA 45-5-501 and TCA 45-5-502
- Mortgage lenders, brokers and servicers in TCA 45-13-112, 113, 116, 117, 121
- Check Cashers in TCA 45-18-113
- Deferred Presentment in TCA 45-17-111
- Premium Finance Companies in TCA 56-37-103, 104, and 106
- Money Transmitters in TCA 45-7-214
- BIDCOS- (Business and Industrial Development Corporations) in TCA 45-8-216
- Home Equity Conversion Mortgages in TCA 47-30-101, 47-30-103, 47-30-109, 47-30-116.

## **Mandated and Optional Services and Means of Providing Them**

The Administrative and Legal Division advises the Department on legal issues and provides administrative and technological support. The Legal section advises the Commissioner and staff on state and federal legal issues, handles enforcement actions, and drafts legislation, rules and regulations. The section works closely with other regulatory agencies, law enforcement, financial institutions and the general public. The Administrative and Support Services section supervises human resources, fiscal, administrative and data processing functions for the Department. This division also provides technological support and a public information officer. The Public Information Officer is responsible for communicating programs and initiatives via numerous internal and external communication vehicles.

The Bank Division is mandated by State law (TCA Sections 45-2-1601, 45-2-1602 and 45-3-812) to supervise and examine state-chartered banks, savings banks, savings and loan associations and trust companies. The division is also mandated to supervise Business and Industrial Development Corporations (BIDCO) pursuant to TCA Title 45, Chapter 8. Bank examiners perform evaluations of each bank's assets, liabilities, income and expenses; monitor compliance with governing laws and regulations; and rate the effectiveness of bank management. The adequacy of capital is measured against the risk of the bank's investments to assure the soundness of the institution. Also the Bank Division evaluates applications for new institutions or mergers, branch expansions, ATMs, corporate reorganizations and it investigates consumer complaints. TCA section 45-2-1717 requires the Commissioner to report certain criminal violations to law enforcement.

Examinations are achieved through routinely scheduled examinations performed by field examiners. Some exams are performed jointly with the FDIC (Federal Deposit Insurance Corporation). The Bank Division meets with the FDIC annually to determine which banks will have joint examinations.

The Credit Union Division is mandated by State law (TCA Sections 45-4-1001 and 45-4-1002) to supervise and examine state-chartered credit unions. Like their counterparts in the bank division, the credit union examiners perform safety and soundness examinations of each credit union and determine compliance with governing laws and regulations. Credit union examiners perform evaluations of each credit union's assets, liabilities, income and expenses in order to assess the solvency of the credit union.

Examinations are achieved through routinely scheduled examinations performed by field examiners. Some examinations are performed jointly with NCUA (National Credit Union Administration). The Credit Union Division meets with the NCUA annually to determine which credit unions will have joint examinations.

The Compliance Division is mandated to license and supervise industrial loan and thrift companies (TCA Title 45, Chapter 5), mortgage lenders, brokers and servicers (TCA Title 45, Chapter 13), money transmitters (TCA Title 45, Chapter 7), insurance premium finance companies (TCA Title 56, Chapter 37), deferred presentment companies (TCA Title 45, Chapter 17), home equity conversions (TCA Title 47, Chapter 30) and check cashers (TCA Title 45, Chapter 18). These companies are examined for compliance with governing laws and regulations by compliance examiners who also investigate consumer complaints and allegations of consumer fraud and usury.

The various statutes listed above mandate that prior to transacting certain defined activities, entities must first demonstrate certain minimum qualifications necessary to obtain either a license or certificate of registration from the Department. This mandates that the Department process applications for licensing or registration and renewal under these various acts. Consumers can file complaints with the Department and seek assistance in addressing their concerns with the activities of a licensee or registrant. In addition to the mandated functions of approving or denying license applications, reviewing renewals, processing applications and addressing consumer complaints, the Commissioner is authorized but not required to conduct examinations of the business records and activities of licensees and registrants. These exams are used to ensure compliance with applicable federal and state laws and regulations.

Consumer Affairs Section has three staff members initially designated by the Commissioner, to coordinate the handling of consumer complaints, to foster community outreach and to encourage financial literacy in Tennessee. These efforts are helpful in identifying and responding to issues such as predatory lending, fraudulent marketing and general misinformation.

### **Performance Standards**

1. Pursuant to statute, regulate and examine Tennessee state-chartered banks.
2. Pursuant to statute, regulate and examine Tennessee state-chartered credit unions.
3. Regulate institutions licensed or registered for compliance with governing acts.

### **Performance Measures**

1. TDFI examinations and joint TDFI / FDIC examinations of state-chartered banks completed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
73	74	70

2. TDFI examinations and joint TDFI / NCUA examinations of state-chartered credit unions completed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
120	125	123

3. Number of licensed entities examined / regulated by the Compliance Division.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2,006/3857 (52%)	2,006/4057 (49%)	2,006/4257 (47%)

### **Obstacles to Meeting Objectives and Delivering Services**

There is an increased demand on staff due to projected increase in consumer complaints, enforcement activities, and licensed entities.

The Department must maintain the expertise or examiners to meet the increasing complexity of  
Department of Financial Institutions

regulated entities.

The Department must maintain the appropriate level of examiners within each division.

### **Means of Overcoming Obstacles**

The Department will form a Consumer Affairs Section to manage and coordinate the handling of consumer complaints and to promote financial literacy in Tennessee.

The Department must obtain continued authorization for required examiner training.

The Department is considering additional positions for the Compliance Division so this division can meet the increased regulatory workload caused by a growing number of entities requiring regulation.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department is self-funded via the fees and assessments levied upon regulated entities. TDFI will continue to monitor those fees and adjust accordingly in order to maximize financial resources and to fund all potential departmental needs.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Administrative Division as well as each other division, has various means of checks and balances with successive reviews before payments are processed to ensure program need and fiscal capability. For example, the Accountant opens each invoice, date stamps it, and ensures that the respective invoice has not been previously paid. The Accountant then enters a batch into STARS in a “preliminary” stage. Before the batch is released in its “final” form, the Fiscal Officer checks the accounting batch against original invoice forms.

For accountability, the Department is requiring each division to regularly monitor for redundant and unneeded expenditures. The Department is also generating separate monthly profit & loss statements (Income statements) for each division. Assistant Commissioners in each division will be responsible for managing their divisions based upon the previously approved budget and P&I statements.

### **Future Challenges and Opportunities**

The Department wants to make the Tennessee state charter the “Charter of Choice” by working to convert nationally chartered organizations and to assist all Tennessee financial institutions in meeting their objectives.

The Department needs increased training of staff in areas of specialization such as capital markets and consumer affairs.

The Department wants to ensure that Tennessee’s financial institutions are fully utilized for

economic development.

The Department encourages gender and ethnic diversity within the Department and within the membership of boards and senior management of regulated entities.

The Department faces educating consumer in the fields of borrowing, financial responsibility and accountability.

The Department is exploring an imaging project that will reduce document storage and cost as well as improve program efficiency.

### **Performance Data Schedule**

Reports and pertinent data will be made available after the end of each quarter to Finance and Administration to keep track of targeted goals.

### **Data Verification**

Data will be verified by the Assistant Commissioners for each division within the Department and reviewed by the Commissioner to ensure that the division is on target to meet performance goals.



# **Department of Labor and Workforce Development**

## **General Agency Information**

The Tennessee Department of Labor and Workforce Development strives to be the nation's leading provider of comprehensive and efficient workplace and workforce services. Every day the Department of Labor and Workforce Development works to make the workplace safer, help those who are hurt on the job, educate and train individuals with the skills they need to enter the workforce, and help those who have lost a job through no fault of their own.

The six program areas in this Department – Administration, Safety and Health, Workers' Compensation, Labor Standards, Employment and Workforce Development and Employment Security work together as a team to improve the working conditions for both business and workers in Tennessee.

Tennessee Occupational Safety and Health Administration (TOSHA) strives to save lives, prevent injuries, and protect the health of Tennessee workers. Staff establishes protective standards, enforces those standards and reaches out to employers and employees through technical assistance, training and consultation programs.

Workers' Compensation administers the workers' compensation program and promotes a better understanding of the program's benefits by informing employees and employers of their rights and responsibilities, by mediating disputed claims, encouraging workplace safety, collaborating with law enforcement to combat fraud and overseeing an information awareness program and for educating the public on laws and regulations that define workers' compensation requirements. Workers Compensation also administers the Second Injury Fund and manages the innovative Drug Free Workplace Program.

The Division of Mines Safety provides and administers mine safety and education training to Tennessee miners, works with Tennessee mining operations in developing safe and healthy work environments and licenses the underground coal, surface and metal mines in Tennessee.

The Division of Boiler and Elevator Operations protects the general public, owners and users, and their employees from the potential hazards inherent to the operation of boilers, pressure vessels and elevators.

The Labor Standards administers and enforces the Child Labor Act, the Wage Regulations Act and the Prevailing Wage Act. The Labor Research and Statistics division conducts the Bureau of Labor Statistics Survey of Occupational Injuries and Illnesses and the OSHA Log Data Collection Initiative Survey to obtain data on non-fatal workplace incidents.

Employment and Workforce Development is responsible for delivering the Department's employment and educational services to employers and job seekers with single points of contact; and customized packages of services including the Division of Aging, which implements the Senior Community Service Employment Program.

Employment Security provides a safety net for workers who have lost their jobs through no fault of their own, accepts initial and partial unemployment claims of Tennessee residents, collects unemployment insurance premiums from employers, serves as the state's official source for

employment research and statistics and helps employers who are looking at business expansions or are interested in labor availability and wage information. For businesses, this Department is a source for more skilled workers, recruitment and training services. For job seekers, it serves as a source for job training, information, placement and opportunities.

The goal is to bring together Tennessee workers and employers in a safe and profitable workplace. Through a wide range of services, offering everything from adult education programs to retraining opportunities for workers who have lost their jobs to professional job applicants seeking a career change, the Department of Labor and Workforce Development works to make this goal possible. Tennessee Career Centers and local Labor and Workforce Development offices are where employers and job seekers come together. Employers can access job information, explore tax credits and have qualified job applicants referred to their companies.

The Department of Labor and Workforce Development contains the following programs to carry out its responsibilities:

1. Administration
2. Tennessee Occupational Safety and Health Administration (TOSHA)
3. Mines
4. Boilers and Elevators
5. Workers' Compensation
6. Second Injury Fund
7. Uninsured Employers Fund
8. Labor Standards
9. Employment and Training
10. Adult Basic Education
11. Employment Security
12. Employment Development

## **Administration**

### **337.01 Administration**

The Administration allotment code consists of the Commissioner's Office, Administrative and Fiscal Services, the Information Office, Information Technology, Internal Audit, Legal Services, and Personnel.

## **Statutory and Constitutional Objectives**

In May 1999, the 101<sup>st</sup> General Assembly unanimously adopted the Tennessee Workforce Development Act of 1999. This act created a new Department of Labor and Workforce Development, integrating the existing Departments of Labor and Employment Security, the Adult Education program, and the employment and training component of the Food Stamp program. Aging has been added effective July 1, 2003.

## **Mandated and Optional Services and Means of Providing Them**

The Workforce Development Act of 1999 mandates that the Commissioner of Labor and Workforce Development develop and implement services which foster the continued enhancement of Tennessee's workforce, ensure the maintenance of a fair, equitable and fully funded unemployment insurance program and to be responsible for the administration of a workforce development system that protects the life, health and safety of Tennessee's workforce.

These services include the overall administration of the Department and its programs. This includes the office of the Commissioner, which is mandated to formulate policies, procedures, and long-range plans to carry out the mission of the Department outlined in Tennessee Code Annotated (TCA) 4-3-1407(1-3).

TCA 4-3-304(7) and 4-3-304(9) mandate the use of internal audits to provide management with objective reviews of departmental processes and include recommendations for improvements.

OMB A-133 mandates the Department of Labor and Workforce Development receive sub-recipient audit reports.

TCA 8-19-501 and TCA 9-18-101 through 104 mandate preparing property loss reports and coordinating departmental compliance with the Financial Integrity Act.

TCA 8-6-301 permits the office of the attorney general to employ staff attorneys and requires that the work of the staff attorneys be supervised and directed by the agency that employs them. In accordance with TCA Title 50 and its ensuing rules and regulations, the Department of Labor and Workforce Development employs attorneys to provide legal representation.

TCA 8-30-201, TCA 8-30-202 and TCA 8-30-203 mandate that Personnel services are based upon the principles of public personnel administration.

## **Performance Standards**

1. Process invoices/travel claims, payroll/insurance transactions and Trade Act Adjustments / Trade Readjustment Allowance claims in an accurate and timely manner.
2. Maintain or improve IT help-desk approval rating from callers seeking assistance.
3. Maintain eCMATs availability to users.
4. Conduct complete internal audits to monitor the performance of the Department of Labor and Workforce Development.

## **Performance Measures**

1. a. Invoices/travel claims processed within 10 working days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
90%	92%	93%

- b. Trade Act Adjustments / Trade Readjustment Allowance claims are processed within 10 working days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
85%	86%	87%

2. Help Desk approval rating.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96%	96.5%	97%

3. Percentage of uptime for CMATs.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
98.29%	98.5%	99%

4. Number of internal audits conducted.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
2	2	2

### **Obstacles to Meeting Objectives and Delivering Services**

The hiring process does not always proceed as quickly as possible. Sometimes the procurement process can be lengthy if the person approving is out of the office or the invoice is sent in without proper signatures. Travel claims may be filled out incorrectly and have to be sent back to employee for correction.

Fiscal and Administrative services face procurement problems when a lack of specific information or accurate specifications are given because the service is dependent of General Services schedule.

The nature of law and legal services require a continuing education process that ensures the specific knowledge of specialized areas of laws, statutes and rules necessary to effectively represent clients. Not all areas of service are able to participate in continuing education classes. Since 2000, the number of cases has increased by fifty percent. Currently, demand for service is exceeding the available supply of attorneys and support staff.

### **Means of Overcoming Obstacles**

Upper management needs to stress the importance of submitting the proper documents/forms with complete information and appropriate approvals for timely processing.

Information Technology provides a detailed document to the Office of Information Resources via the Information Systems Three Year Plan outlining upcoming projects, plans and recommended enhancements to the IT workflow.

One copy of the most recent addition of TCA and any other book of statutes, laws and codes should be at the disposal of each attorney. Furthermore, when an opportunity for a continuing education class presents itself, the person with the greatest need for the class should attend.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Mandated guidelines on performance should be met and, where possible, exceeded. A continued emphasis on the importance of continuing education will instill a need to maintain a highly educated Department. The collection of fines of fines and taxes should continue.

The Information Office financed an advertising campaign for the Tennessee Career Centers by getting the local administrative entities involved. Their involvement helped pay the cost of the campaign.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Department should continue to look at ways to use people that are “in house” utilizing the talents and skills of personnel, instead of contracting outside agencies.

All personnel are encouraged to use forms that are attached to email for ordering and to use the fax to obtain approval signatures on invoices. This reduces the cost of ordering forms and postage costs of mailing back and forth from Central Office and Local Offices.

In the past, the Department has contracted out video productions for training videos, promotional videos and public service announcements. The Information Office now has the equipment and ability to produce these videos in-house, saving the Department hundreds of thousands of dollars.

## **Future Challenges and Opportunities**

The Information Office faces the challenge of promoting the departmental services and initiatives to the public across the state. With a unified marketing plan, new logo and partnerships with media across the state, the opportunity to reach a larger population is within reach.

## **Performance Data Schedule**

Department/division meetings will be scheduled bi-weekly to keep all employees informed of training offered and events in each service.

Weekly reports from all services will be sent to the Commissioner. A monthly review of each program will be included. Quarterly data, comprised of monthly reports, will be reported by the Department. All data will be available on the 15<sup>th</sup> of the month following quarter end.

## **Data Verification**

The Program Managers and the Administrator will verify the information released on the Performance Data Schedule.

## **Safety and Health**

### **337.02 Tennessee Occupational Safety and Health Administration (TOSHA)**

The primary goal of Tennessee's Occupational Safety and Health Administration's (TOSHA) is to improve occupational safety and health in workplaces throughout the state. Improved safety and health in the workplace will result in reduced injuries, illnesses and fatalities. TOSHA has continued to meet its strategic goals for the last five years, and continues to receive grants from OSHA to improve safety and health in the workplace.

Tennessee's program services are delivered through a central office in Nashville and five field offices located in six strategic geographical areas in Chattanooga, Jackson, Kingsport, Knoxville, Nashville and Memphis.

The General Assembly mandates TOSHA to ensure that every employer furnish a place of employment free of recognized hazards and provide a safe and healthful workplace for its employees. While the legislated mandate and philosophical approach to the implementation of the state's Occupational Safety and Health Program has remained constant, the resources, delivery of services and staff relationships to citizens are constantly reevaluated. This provides a relevant mix of strategies to address current needs and direction.

The services inside the TOSHA division include:

The Administrative section ensures that TOSHA services are provided to employers and employees statewide. Policy and enforcement activity is implemented in an effort to further enhance the professional credibility of the program. The TOSHA program has received continuous support from both the executive and legislative branches of state government. Sound management methods have resulted in cost-effective services being provided in accordance with state/federal mandates, policies and philosophy. The program uses acceptable accounting principles that meet state and federal guidelines to comply with the five-year strategic plan.

The Safety and Health Compliance section ensures compliance with standards, rules and regulations set forth by the Tennessee Occupational Safety and Health Administration. The primary objective of the Enforcement Section is to prevent and minimize occupational work-related illnesses and injuries in the state through inspections, technical assistance to employers and employees, and issuance of citations and penalties for violations of the standards are methods of achieving this objective. A trained staff of industrial hygiene and occupational safety professionals accomplishes these activities. The Compliance section performs four basic types of inspections: Imminent Danger, Accident Investigations, Complaint and General Schedule.

The Public Sector program requires each administrative department and agency of the state to establish and maintain a safety and health program. Each county, municipality or other local

government must implement its own program or be treated as a private employer. The Public Sector section assists public sector employers in developing a safety and health program to comply with the Act. Once an agency or local government has established a written program, it is reviewed by TOSHA for compliance. The Tennessee public sector plan is unique in that all written programs are submitted by local governments and are approved by TOSHA. The plan must commit to voluntary compliance with the law and standards as promulgated by TOSHA. Monitoring visits are scheduled every two years. No penalties are issued in the Public Sector for government agencies who have submitted programs.

TOSHA responds to complaints of discrimination based on participation in a protected activity in the workplace in a timely manner. All discrimination investigations will be processed in a timely manner with recommendations for further action. Discrimination cases with merit, that are not set led, will be referred to the Department of Labor and Workforce Development Legal Staff for referral to the Attorney General.

The Standards and Procedures section prepares state and federal rules changes and federal program changes for adoption by the State. This section provides interpretations of specific standards and help to both employers and employees in finding and understanding TOSHA standards. The section provides standards manuals for 29 CFR 1910 General Industry, for 29 CFR 1926 Construction and for 29 CFR 1928 Agriculture at cost. This section adopts federal rules changes to remain "at least as effective as" the federal program and adopts state rule changes.

The Training and Education section advises and assists employers, employees and their representatives to increase their knowledge and awareness of safety provisions and practices of the OSHA Act. In addition, this activity also collaborates with the each section in providing programs of training and continuing education for staff members. The primary mechanisms for achieving these goals are through seminars, speeches, on-site programs and participation in safety and health conferences. This section publishes a quarterly newsletter that serves as another vehicle for disseminating safety and health-related information to over 18,000 people on the division's mailing list.

The Volunteer STAR is a Voluntary Protection Program (VPP) designed to recognize and promote effective safety and health management at manufacturing sites within Tennessee. In the VPP, management, labor and TOSHA establish a cooperative relationship at a workplace that has implemented a strong safety and health program. Prior to applying to the Volunteer STAR program, a site must maintain three-year injury and illness rates below the national average for their industrial classification.

Consultative Services provides employers to the extent feasible, advice and assistance to enable them to improve occupational safety and health in their work places. When hazards are identified or violations of the OSHA standards are found, no citations or penalties are issued. A correction period is established for all hazards identified. Consultation records are completely separate from enforcement records, and employers who take advantage of consultative services may receive consideration for such when they receive an enforcement inspection. These companies are exempt from compliance inspections while working with consultation.

## **Statutory and Constitutional Objectives**

The Tennessee program was authorized through legislation in Tennessee Code Annotated (TCA). The Tennessee Occupational Health Act of 1972 (TCA Title 50, Chapter 3) was passed and became operational in July 1973. A public sector program to extend coverage to government employees was added in 1974. The program operated as a dual-designee (Public Health and Labor Departments) until July 1977. At that time, the General Assembly enacted legislation to transfer the health function to the Labor Department. The Tennessee Occupational Safety and Health Administration (TOSHA) program was certified in May 1978 and final (18-E) determination was achieved in July 1985.

In July 1999, the Tennessee General Assembly combined the Department of Labor with the Department of Employment Security into the Department of Labor and Workforce Development. TOSHA is a division of the Department of Labor and Workforce Development.

## **Mandated and Optional Services and Means of Providing Them**

TOSHA is required to perform mandatory activities by TCA Title 50 Chapter 3.

Fiscal personnel track the use of grant funds for TOSHA and track penalty payments in accordance with State of Tennessee guidelines for delinquent accounts. Companies that do not pay penalties within six months of the citation issue date are referred to the Attorney General's Office for collection (TCA 50-3-107 and 50-3-408).

The Commissioner adopts Occupational Safety and Health rules (TCA 50-3-201).

TOSHA continues to respond actively to complaints of discrimination in the workplace (TCA 50-3-106(8)).

All discrimination investigations are processed in a timely manner with recommendations for further action. Discrimination cases with merit and not satisfactorily settled are referred to the Tennessee Department of Labor and Workforce Development Legal Staff for referral to the Attorney General (TCA 50-3-409).

Advanced notice of inspections is given only in accordance with the FOM and only with the TOSHA Administrator's knowledge and approval (TCA 50-3-306).

TOSHA acts on all Imminent Danger situations through intervention and inspection before any other compliance activities are performed (TCA 50-3-301 and 50-3-304(a) (1)).

TOSHA inspects all reported accidents involving a fatality or where three or more employees are hospitalized that is within its jurisdiction (TCA 50-3-702).

TOSHA evaluates and investigates approximately 550 complaints a year to ensure that potential hazards are eliminated as soon as possible. Emphasis is placed on resolving complaints by letter and telephone/facsimile. All complaints are evaluated and 90% showed a correction of hazards identified. All complainants, who provide their names, are notified of the results of an



intervention by letter within 10 days after a citation is issued or when the inspection is closed without citation (TCA 50-3-304(a) (2-5)).

TOSHA maintains a penalty structure, which sanctions employers who violate the TOSHA standards and fail to provide their employees with a safe and healthful workplace. First-time violators of the TOSHA standards receive fines where penalties are required by the nature of the hazard (TCA 50-3-402, 50-3-403, 50-3-404, 50-3-405 and 50-3-406).

TOSHA identifies and abates over 8,000 hazards in the workplace during 2,000 inspections and visits each year. TOSHA ensures all violations and hazards identified during enforcement and consultation actions are abated correctly, removing employees from potential injury. Written or on-site abatement verification is required for all identified violations. All letters received indicating abatement of violations are evaluated for adequate documentation. Abatement verification with significant documentation (photos, invoices, etc) is required for all high gravity serious, repeated and willful violations. Employers are notified during enforcement actions that rapid, well-documented correction of violations will be taken into consideration for penalty reductions (TCA 50-3-307).

TOSHA provides access to safety and health information for the public to improve safety and health in the workplace. It is important to provide interpretations of TOSHA standards. Staff gives assistance to employers, employees and the general public on controlling hazards in the workplace by answering technical questions on a daily basis, providing training and informational booklets and handouts. Maintaining a TOSHA web site for employers and employees to obtain information on safety and health, TOSHA programs, and connect to other web sites where additional information is available (TCA 50-3-904(4)).

TOSHA continues to attempt to resolve all cases in an informal manner prior to formal Review Commission hearings. Informal conferences are held within 20 days of the employer's request. Approximately 2% of all cases are contested each year. TOSHA monitors selected conferences to ensure uniform and reasonable settlements are reached (TCA 50-3-105(5 and 6)) and (TCA 50-3-106(11)).

TOSHA provides employers and employees a method of disagreeing with the results of interventions in their workplaces. Complainants who provide their names and addresses are provided a mechanism to question the results of interventions involving complaints that they file with TOSHA. Employers and employees are given 20 days from the receipt of the citations issued to contest the citations, penalties or abatement dates (TCA 50-3-105(5), 50-3-105(6), and 50-3-106(9)).

An independent Occupational Safety and Health Review Commission is appointed to review citations and determine the merit of each contested case. They oversee withdrawals of contestments, formal settlement agreements and render decisions in all contested cases (TCA 50-3-802).

High quality training programs are developed and presented throughout the state in accordance with the emphasis toward education in the five-year strategic plan. All trainers participate in classes on effective training techniques before they perform training. They are approved by the Manager of Training (TCA 50-3-904).

TOSHA provides inspection information in response to Freedom of Information Requests within 15 days of payment for copying charges (TCA 10-7-503).

TOSHA provides the Department of Labor and Workforce Development Rules and TOSHA General Industry, Construction and Agriculture standards at cost. On-site consultation services are offered to small employers.

TOSHA assists and encourages employers to develop and implement safety and health programs in their workplaces by providing award programs that recognize companies that implement effective safety and health programs and publishing a quarterly newsletter.

TOSHA provides access to safety and health information to the public to improve safety and health in the workplace. The division provides copies of the TOSHA Standards and Rules at cost.

Training sessions for new standards are conducted. Prior to the effective date of TOSHA enforcement of a new standard, training presentations are made and information is provided to the public. All professional staff members receive information and/or training on the new standards prior to the effective date. Information on new standards is provided at all conferences and presentations. New standards are highlighted in articles in the Quarterly TOSHA Publication.

## Performance Standards

1. Eliminate serious hazards in workplaces where interventions take place.
2. Reduce the number of fatalities due to falls.
3. Provide training in occupational safety and health training classes.
4. Implement improvements in employer occupational safety and health programs in workplaces where TOSHA Compliance has had an intervention.

## Performance Measures

1. Number of serious hazards identified in workplaces during TOSHA interventions.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
6,128*	6,000	6,000

2. Percent reduction of fatalities from falls in 1999.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
9%*	18%	28%

3. Number of people trained in occupational safety and health training classes.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
7,527*	7,500	7,500

4. Number of workplaces where improvements in employer occupational safety and health program were made where TOSHA Compliance has had an intervention.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
826*	800	800

\*This number is an estimate as actual figures were not available for 2002-2003.

## **Obstacles to Meeting Objectives and Delivering Services**

Historically, turnover of technical employees has been a problem limiting the ability to have concerted efforts toward meeting goals. Training a field enforcement officer takes a minimum of one year, and an advanced Compliance Officer, Trainer, or Consultant three years.

Turnover and unfilled positions can affect spending of federal funding. If staffing levels are not maintained TOSHA could lose funding.

Mandated activities required under the Act and mandatory activity measures required by OSHA under the grant program must be performed and are in the best interest of the people of Tennessee. These include investigation of accidents, fatalities, catastrophes, answering employee complaints, and answering technical assistance questions from the public on a daily basis.

## **Means of Overcoming Obstacles**

The turnover rate for technical personnel was greatly reduced and was a factor in the achievement of the strategic goals for 2002 and 2003. The significant increase in the pay scale in May 2001 helped reduce turnover and produced better results in 2002 and 2003. TOSHA offers its staff training opportunities in safety and health that cannot be achieved in private industry. A stable, professional working environment and a job that provides its employees with a varied look at safety and health in many industries are incentives for employment.

TOSHA continues to fill available positions as soon as they become unfrozen, civil service procedures can be fulfilled and adequate staff is available to perform training. TOSHA recently received from the Department of Personnel a blanket freeze approval on Compliance Officer Positions.

The mandated activities required by the Act are a priority. All interventions (Accident Investigations, Phone/FAX Complaints, Complaint Inspections, etc) were scheduled completed, and where possible, directed toward the achievement of the Performance Plan and the Strategic Plan's goals and objectives.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

TOSHA will maximize its sources of revenue by continuing to meet the benchmark staffing requirements of the grant for the Compliance Program. Staffing levels affect the amount of money that will continue to be provided to TOSHA. The division has requested that OSHA provide additional funding to promote the Consultation program. The grant application for 23(g) and 21(d) will be completed by September 1 each year and the performance report will be completed by December 1 each year. The division will meet all mandatory activity measures required by the US Department of Labor – OSHA and will continue to meet the requirement of “being as effective as or more effective than OSHA.”

## **Means of Avoiding Unnecessary Costs and Expenditures**

TOSHA has a number of internal cost control procedures in place to avoid unwarranted and/or unauthorized expenditures. Adherence to policies and procedures for procurement, travel and related expenditures is strictly enforced.

The funding for each OSHA grant is submitted to Washington annually and must be approved. Federal auditors from the regional office in Atlanta audit the program each year. All purchases and travel requests are approved through the Department and State Finance and Administration.

In addition to the annual federal monitoring reviews, departmental internal auditors as well as the State auditors from the Office of the Attorney General also monitor TOSHA annually.

## **Future Challenges and Opportunities**

TOSHA will continue to face staffing shortages due to the demand for quality safety and health professionals in the private sector. However, this challenge provides TOSHA with the opportunity to contribute more qualified and trained persons to the safety and health profession in Tennessee and the nation and welcome the challenge to train individuals interested in this arena.

The workforce in Tennessee is large. There are 1,652 workplaces for each of the division's 73 professional field staff members to evaluate. Therefore, the division must develop targeting strategies that use resources effectively. Evaluations will be directed to high hazard industries and workplaces, where employers request assistance, and to those employers who choose to not keep their workplaces safe and healthful.

The workplace is changing with new types of businesses that have hazards both internal and external. The standards TOSHA enforces cover all types of workplaces. New standards and information on new biological, chemical and physical hazards is discovered regularly. These include diverse problems such as workplace violence, mold in the workplace and homeland security. The division's in-house training plan and OSHA Technical Institute classes ensure professional staff remains up-to-date on the latest safety and health literature and technology.

The Hispanic population of Tennessee is increasing and with it the number of injuries and illnesses experienced by them. In the next 10 years, the number will increase requiring TOSHA to have more bilingual personnel to communicate effectively. The division is in the process of obtaining the services of translators in all areas of the state to help with interviews and witness statements.

TOSHA has worked with the Tennessee Office of Homeland Security and Tennessee Emergency Management Agency to develop a response plan. The plan will provide technical assistance and ensure the safety and health of emergency response workers during response incidents and site workers during any subsequent cleanup.

## **Performance Data Schedule**

TOSHA produces a monthly report of all performance standard measures and an annual activity report on December 1. All data will be available on the 15<sup>th</sup> of the month following quarter end.

The TOSHA program will continue to use the federal IMIS system and maintain communication with OSHA by providing operational data. TOSHA provides daily and weekly transmission of operational data (Accident Investigations, Complaints, Inspections, Referrals, Violations, Contestments, Payments, etc.) to the IMIS system. Corrections to errors on the IMIS system are performed the day they are received. The division continues to ensure that all inspection-related forms are entered correctly and transmitted to the National Office in a timely manner.

OSHA provides quarterly activity measure reports covering a two-year period. These reports produce data that is broken down into quarterly, semi-annual, annual and two-year segments.

### **Data Verification**

TOSHA enforcement and consultation data is sent to OSHA and verified for accuracy daily. Data that is not correct is identified as an error. TOSHA corrects the error and resubmits it to OSHA until it is no longer returned as an error. TOSHA reports requiring the totaling of information also contain specific verification of the data. Federal reports are analyzed for accuracy and where discrepancies are found identified, researched and reported to OSHA. The division relies on BLS and Worker's Compensation data to be correct. Training data is entered, checked and verified by the Training section of TOSHA.

### **337.04 Mines**

The Mines Division offers mine safety classes, mine foreman exams; issues mine licenses and provides mine rescue coverage. Federal Mine Safety and Health Administration (MSHA) Part 46 and 48 mandate that each person who works on a mine property shall receive health and safety training before beginning work. Miners shall also receive annual refresher training throughout their career. There are 264 mines located in Tennessee (242 under part 46) and (22 under part 48).

### **Statutory and Constitutional Objectives**

Tennessee Code Annotated (TCA) Title 59, Chapters 4, 8 and 12 mandates the services of the Division of Mines. Federal guidelines mandate new miner and annual refresher training in underground and surface for coal and metal/nonmetal mines, mine rescue training, maintaining mine rescue station and electrical qualifications for coalmines.

### **Mandated and Optional Services and Means of Providing Them**

Mine Safety and Health Administration mandates that all underground and surface coalmines, all metal underground and surface mines and all underground non/metal mines receive training from an MSHA approved instructor. This includes mine rescue coverage for underground operations as well as electrical certification/qualifications for the coal industry.

An optional service is the provided training for the surface non/metal operations and contractors that are used by the operators. Another training service provided is first aid/CPR training to all interested parties employed with these companies.

### **Performance Standards**

1. Provide mine foreman exams quarterly.
2. Teach mine safety classes upon requested by industry.
3. Increase number of persons trained in mine safety each year.

### **Performance Measures**

1. Number of persons taking Tennessee mine foreman exam.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
28	33	30

2. Number of mine safety classes taught.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
218	229	230

3. Number of persons trained.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,983	2,210	2,265

### **Obstacles to Meeting Objectives and Delivering Services**

The division is not informed of all new mining operations in the state.

With the addition of new regulations implemented by the Mine Safety and Health Administration, the mine safety instructors must be updated on training, equipment and materials frequently.

### **Means of Overcoming Obstacles**

The Mines Division works closely with MSHA, mine operators and mining agencies of other states to promote safety in every aspect of mining.

Purchasing updated mining equipment on an as needed basis and ensuring that instructors are trained by attending the required seminars and training will provide for the new regulations.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The division is partially funded by a grant from the Federal MSHA, which specifies that all mine safety instructors be approved to teach new miner and annual refresher training. These various courses are required by industry. Monies received from mine operators for mine safety classes taught to their employees are used to help fund the division's budget.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The division will undergo at least one state and federal audit yearly.

## **Future Challenges and Opportunities**

Increased competition will be seen with regard to contract trainers.

## **Performance Data Schedule**

The division will report all performance standard measures on a quarterly basis. All data will be available the 15<sup>th</sup> of the month after quarter end.

## **Data Verification**

The Program Managers and the Administrator verify the information released on the Performance Data Schedule. Feedback from MSHA representatives will also be used to ensure that all reported data is accurate.

## **337.05 Boilers and Elevators**

The responsibility of the Boiler Inspection Division is to protect citizens from the potential hazards involved in the operation of boilers and pressure vessels in the state of Tennessee. There are three categories of vessels that are inspected: high pressure, low pressure and unfired pressure vessels. There are approximately 65,000 boilers and pressure vessels currently operating in the state.

The Boiler Inspection Division licenses boiler repair companies to repair boilers and pressure vessels. There are over 150 repair companies licensed to repair boilers and pressure vessels in Tennessee.

The Boiler Inspection Division is also responsible for conducting tri-annual quality control reviews for the American Society of Mechanical Engineers and the National Board of Boiler and Pressure Vessel Inspectors. The reviews are performed on companies that are in the state of Tennessee, that manufacture and/or repair boilers and/or pressure vessels.

The responsibility of the Elevator Division is to ensure the safety of every passenger and freight elevator in the state. Currently there are over 20,000 inspections a year. The division also conducts initial inspections on new buildings to insure proper installation, and makes non-appointment inspections to verify safety codes are being met. An elevator inspector is responsible for conducting accident reports, and reporting to the Chief Inspector of their findings.

## **Statutory and Constitutional Objectives**

Tennessee Code Annotated (TCA) 68-122 requires the Boiler Inspection Division to inspect, register and invoice all boilers and pressure vessels that are operating within the criteria of the law; that all boiler and pressure vessel repair companies are licensed with the Boiler Inspection Division; and that manufacture and repair companies receive a tri-annual quality control review.

TCA 68-19-105 elevators, dumbwaiters and escalators must be registered within seven days of their completion and placed in service. The state elevator board governs the division.

The National Board Inspection Code and amendments thereto, provide a framework for the inspection of boilers and pressure vessels.

## **Mandated and Optional Services and Means of Providing Them**

TCA 68-122 mandates the inspection, registration and invoicing of all boilers and pressure vessels, and the licensing of all repair companies. Through the adherence to this process one service, Tri-Annual Quality Control Reviews, has emerged that contributes to the activity.

The Tri-Annual Quality Control Reviews are performed by a certified Review Team Leader on companies, for the American Society of Mechanical Engineers (ASME) and the National Board of Boiler and Pressure Vessel Inspectors (NBBI), on companies that are in the state of Tennessee, that manufacture and/or repair boilers and/or pressure vessels. The Boiler Inspection Division is asked by the ASME and NBBI to perform the required Tri-Annual Quality Control Reviews at no cost to the state. All man-hours and expenses are paid by the company receiving the service (review). This service is performed at a lower rate to Tennessee based companies than can be accomplished by the ASME and the NBBI.

TCA 68-19-106 mandates scheduling of inspections, testing of elevators dumbwaiters and escalators. The results of these inspections must be reported.

## **Performance Standards**

1. Have no more than 30 days between the dates the boiler inspection is performed, the report is processed, and the date the invoice of certificate/inspection is printed.
2. Continue to have an annual decline in the number of boilers and pressure vessels that are classified as being in delinquent inspection status (more than 90 days overdue for inspection).
3. Have no more than 30 days between the dates the elevator inspection is performed, the report is processed, and the date the invoice of certificate/inspection is printed.



## Performance Measures

1. The average percentage of boiler inspection reports that were processed within the required 30-day allotted timeframe.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
93%	94%	95%

2. Annual number of boiler and pressure vessels that are in delinquent status.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
5,532	4,500	3,000

3. The average percentage of elevator inspection reports processed within the 30-day allotted timeframe.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
99%	99%	100%

## Obstacles to Meeting Objectives and Delivering Services

With the advent of the Boiler Electronic Reporting Program, there have been situations where field inspectors have fallen behind due to equipment downtime and system rejected reports. At this time, there are a small percentage of reports that are being rejected by the Interface Program (the system that edits the reports). However, there have been situations where inspectors have had inspection reports rejected by the Interface Program; the occurrences are becoming less frequent.

With the need to upgrade computer equipment and software programs, to keep up with technology, the division could see a time where year-end revenues may not be higher or equal to years past.

With the growth in the installation (notification) of boilers and pressure vessels throughout the State, and the shortage of qualified commissioned boiler inspectors, the division may find itself in a situation where the number of delinquent vessels could remain stagnant, or even rise.

There is no guarantee that elevator companies will follow the accepted rules when installing new elevators. Furthermore, the division is experiencing improper notification by elevator companies for new acceptance inspections.

## Means of Overcoming Obstacles

With the advances in technology and software, the division could utilize these advances to ensure that inspectors have the most up-to-date and reliable equipment the division can provide. Additional, ongoing training in the proper procedure and practices in reporting of inspections would assist in the endeavor to process inspection reports in the allotted timeframe.

To overcome revenue shortages and surpassed budgets in the replacement of equipment, the division needs to have a proposed plan of action to ensure that there is a minimal amount of time spent on replacing and training of new equipment. There must also be a situated training schedule for newly hired Boiler Inspectors, to set the most efficient timeframe between the hire date and the date the inspector becomes certified (able to inspect).

The division must keep a close watch of the current delinquent list, and track the progress of its decline. The division must also be attentive to the increase of initially installing boilers and pressure vessels, and its effect on the workload of the current inspectors. If the workload becomes overbearing, the management of the division must take necessary steps to increase the inspection staff for the division.

The division must track delinquent notices and conduct follow up inspections on a monthly basis. The division must continue working with Information Systems to develop an in house elevator-tracking program. The division also needs inspectors to attend training and refresher courses to keep them abreast of all new safety regulations.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Both the Boiler Inspection and Elevator Inspection Divisions are self-supporting and require no outside funding.

### **Means of Avoiding Unnecessary Costs and Expenditures**

With systems such as the Boiler Inspection Program, Interface Program and Boiler Search Program, the division has made great strides informing inspectors of due inspections, along with the ability to locate boilers and pressure vessels that are in the same vicinity and will also be due for inspection.

Careful monitoring of supply ordering and distributing is essential in keeping costs to a minimum. All supplies that are requested from the field and office staffs must first be approved by the applicable supervisor. The supervisor will log all requests to ensure waste does not occur. Mileage claims (Expense Reports) are monitored closely by the supervisor to ensure that the field staff is scheduling their workday in the most efficient manner. The supervisor will perform corrective action and instruction if a mileage claim is found to be in question.

Inspectors are strategically located throughout Tennessee to cut down on unnecessary travel costs.

### **Future Challenges and Opportunities**

The division must find the best way to overcome the changes in technology of the electronic entry of inspection reports. The division must find which process best suits the division. The change from a stand-alone process to a real-time program has hidden challenges to the division (e.g., new equipment, connectivity problems and speed, retraining, etc.).

Replacement of seven Deputy Boiler Inspectors that are near retirement is a major concern of division. Even with the average age of an inspector (55) being the lowest in some years, the process of replacing inspectors that retire, or leave state government, is one that can be very difficult. Similar problems face the Elevator inspectors where currently 15 inspectors of 21 have retired from an elevator company and can leave the state at any time for full time retirement.

## **Performance Data Schedule**

The Boiler and Elevator Inspection Division processes inspection reports and produces operating certificates and invoices the afternoon of every Friday. There is also a monthly audit of the amount of remaining delinquent vessels and vessels that are in Red Tag status. The scheduled audits of the division's processes help us to be abreast of any shortfalls.

Certificate and inspection invoice are processed daily, monthly audit and progress reports are reviewed by the Chief and Assistance Chiefs; and inspectors are subject to them personally going on the job to insure quality is being preformed.

Delinquent accounts are being processed on a 75, 90, 105, 120, 150-day level; this includes telephone calls, suspension letters, delinquent red tag letters and legal.

All data will be available on the 15<sup>th</sup> of the month following quarter end.

## **Data Verification**

All data on the inspection reports is verified through quality assurance from the office staffer that is processing the reports. Random audit of data is often performed by the Chief Inspector, Assistant Chief Inspector and Office Supervisor to ensure accuracy and completeness.

Quality Assurance is evaluated by Chief, Assistant Chiefs and Office Supervisor, random in house audits, internal and external audits.

## **Workers' Compensation**

### **337.03 Workers' Compensation**

Workers' Compensation is responsible for administering the state's workers' compensation system by promoting better understanding of the program's benefits and informing employees and employers of their rights and responsibilities. Workers' Compensation administers a mediation program for disputed claims, encourages workplace safety and oversees an information awareness program for educating the public on laws and regulations that define workers' compensation requirements. Workers' Compensation oversees the drug free workplace program designed to promote drug and alcohol free workplaces for increased productivity and enhanced competitive position free from the costs, delays and tragedies associated with work-related accidents resulting from substance abuse employees. Workers' Compensation ensures that

companies properly provide benefits while both assessing and collecting penalties for noncompliance from employers and insurance companies.

The division contains the following mandated services: Benefit Review, Case Management and Utilization Review, Claims, Coverage, Drug Free Workplace and Uninsured Employers Fund; Note: This is discussed under allotment code 337.14. The division contains six offices across the state: Memphis, Jackson, Nashville, Chattanooga, Knoxville and Kingsport.

## **Statutory and Constitutional Objectives**

Tennessee Code Annotated (TCA) Title 50, Chapters 6 and 9 and Title 56, Chapter 47 and General Rules and Regulations Chapters 0800-2 require the Division of Workers' Compensation to administer the state's workers' compensation system.

## **Mandated and Optional Services and Means of Providing Them**

State law mandates all Workers' Compensation services. There are no optional services.

Benefit Review provides information and assistance regarding workers' compensation laws, rules and procedures for early resolution of workers' compensation disputes in order to minimize adversarial relationships between parties, decrease litigation and reduce the overall costs of workers' compensation claims for all parties as mandated by TCA 50-6-239.

Case Management and Utilization Review coordinates services provided by employers and insurance carriers to ensure that employees receive reasonable, necessary and cost effective medical services as mandated by TCA 50-6-123.

Claims receives all claims forms filed by the employer, insurance carriers, and attorneys as well as maintaining the official state file and records of all of the programs within Workers' Compensation through imaging technology as mandated by TCA 50-6-201.

Coverage receives all insurance filings and maintains a record of workers' compensation coverage as mandated by TCA 50-6-406.

Drug Free Workplace establishes standards for voluntary programs implemented by employers to prevent the abuse of alcohol and drugs in the workplace as mandated by TCA 50-9-101. The procedures for testing for drugs and alcohol under TCA Title 50, Chapter 9 are mandated by the U.S. Department of Transportation's rules for workplace drug and alcohol testing compiled at 49 C.F.R., Part 40. The laboratory conducting the testing must be certified by the Substance Abuse and Mental Health Services Administration or the College of American Pathologists.

Workers' Compensation is a government entity, as such; there are no private industries that offer the services that the division provides free. However, private lawyers and mediators can provide information and assistance regarding workers' compensation claims for a fee to both injured employees and employers. The court system can hear disputed workers' compensation claims, although, judges across the state are requiring disputed cases be processed through the Benefit Review Program before they will hear the cases. Through Electronic Data Interchange, the division is able to obtain workers' compensation coverage information. This is information provided by private insurance carriers but the division is required by state statute to collect and

analyze relevant statistical data and other information necessary to evaluate the workers' compensation system and to assess the impact of the reform acts of 1992 and 1996 on the system. The division must also maintain a statistical and historical database for the workers' compensation program. The division's cost is less than a private entity provides. The legislative mandate is to lower the overall cost of workers' compensation claims. It is in the citizen's interest to continue its current process.

## Performance Standards

1. Decrease annually the time taken to resolve Workers' Compensation temporary issues from receipt to resolution. Temporary issues include both the timing from the receipt of a Benefit Review Conference (BRC) request to the date of resolution and the timing from the receipt of a Request for Assistance (RFA) on Temporary Issues to the date of resolution.
2. Increase annually the number of cases reviewed and resolved by the Medical Director and the Medical Cost and Containment Committee.
3. Increase annually the number of case managers registered annually.
4. Increase annually the number of private sector employers participating in the Drug Free Workplace Program.

## Performance Measures

1. The average number of days taken to resolve Workers' Compensation temporary issues from receipt to resolution:

a. Average number of days to resolve a BRC Resolution.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
120 days*	114 days	108 days

b. Average number of days to resolve a RFA Resolution.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
92 days*	92 days	87 days

2. The number of cases reviewed and resolved by medical director and Medical Cost and Containment Committee.

NOTE: The medical director clarifies 5% or less of medical issues for the Benefit Review Program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
150*	158	165

3. The number of case managers registered annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
150*	158	165

4. The number of private sector employers participating in the Drug Free Workplace Program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3,079*	3,227	3,388

\*This number is an estimate as actual figures were not available for 2002-2003.

## **Obstacles to Meeting Objectives and Delivering Services**

As more parties involved in workers' compensation claims become familiar with the Benefit Review Program, the demand for services continues to increase. Projected figures indicate that there will be an increase of approximately 9% in the number of requests for Benefit Review Conferences. More trial courts are referring cases to Workers' Compensation Specialists for resolution of disputes without litigation. This results in an increased caseload for the Workers' Compensation Specialists and administrative staff along with pressure to expedite the resolution of disputes.

State law requires that if a Workers' Compensation specialist is not available to conduct a Benefit Review Conference within 30 days of the request, the mediation is not mandatory. In some offices, the first available dates for a Benefit Review Conference are 90 to 120 days from receipt of the request due to heavy scheduling and shortage of mediators. This delay is contrary to the statutory purpose of resolving claims in a timely manner. Parties who are unwilling to wait for a Benefit Review Conference waive the process and proceed with litigation without the benefits of non-adversary, informal dispute resolution. In spite of the increase in requests for Benefit Review Conferences, the number held has not increased due to the limited capacity of the program to schedule and conduct more Benefit Review Conferences.

The heavy mediation caseload leaves few Specialists available to properly investigate and resolve issues involving temporary disability benefits and medical care for those parties in need of assistance. In 1996, the legislature gave Workers' Compensation Specialists the authority to approve settlements. No additional positions were created to fulfill this responsibility. This places an even greater burden on the Workers' Compensation Specialists and the support staff to schedule and conduct these settlement approvals.

## **Means of Overcoming Obstacles**

To meet increasing demands, comply with the statutory requirements and provide appropriate handling of workers' compensation disputes, the Benefit Review Program must have more Workers' Compensation Specialists and administrative support staff. Although vacancies have been filled in a timely manner, the staffing is limited by the number of positions funded when the Program was established in 1992. Since that date, no new positions have been added even though additional mandates have been imposed by the legislature. Technological improvements have led to increased productivity allowing employees to focus on their growing workload. Continued replacement of computer technology enables Workers' Compensation to improve efficiency either through software or Internet based applicants. However, additional Workers' Compensation Specialists and support staff would result in more timely and efficient delivery of services. For example, to cut the delay in Benefit Review Conference scheduling in the Nashville office by half, it would require twice the number of Specialists doing the same number of conferences per month. Additional support staff is also needed to process files, generate confirming correspondence and gather necessary information.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There is no source of Federal funding available to the Division of Workers' Compensation.

Money is generated for the General Fund of the State by fees charged for workers' compensation information requested by employers and attorneys or services provided through the division. Benefit Review services are currently provided free of charge. Consideration is being given to an establishment of a fee schedule for those services. Workers' Compensation could assess or increase the rate at which it charges for these services.

## **Means of Avoiding Unnecessary Costs and Expenditures**

State and internal audits provide annual financial and compliance and performance reviews of the division.

The Department's Division of Administrative and Fiscal Services, along with the Administrator, monitor and review actual expenditures of the division regularly.

## **Future Challenges and Opportunities**

Staffing shortages are a challenge as the Division of Workers' Compensation faces an increase in the number of claims filed in the state. As new computer technologies develop, the division may be able to continue to eliminate the need for data entry. This allows employees to focus their duties on their growing workload in the division.

A Benefit Review Conference is mandatory if it can be scheduled within a 30-day period. However, state law requires that a trial cannot be held until either there is a Benefit Review Conference or both parties agree to waive the conference. This timeframe causes the scheduling of conferences four months in advance in order to meet the increasing demand for services. With additional personnel, claimants can have their cases resolved and payments received quickly.

## **Performance Data Schedule**

Workers' Compensation will report all performance standard measures on a quarterly basis. All data will be available the 15<sup>th</sup> of the month after quarter end. This timeline of release of information will allow those interested to follow trends in workers' compensation claims.

## **Data Verification**

The Program Managers and the Administrator verify the information released on the Performance Data Schedule. More importantly, the Workers' Compensation computer system is able to track this information. This data is accurate and the monitoring system's security is not easily compromised.

### **337.08 Second Injury Fund**

The division has offices in Knoxville, Jackson, and Nashville. The division is entirely funded by the state. The division represents the Second Injury Fund in catastrophic workers comp cases. The exposure on a given case could exceed \$500,000. In 2000, the Second Injury Fund opened 453 new cases. There were 562 new cases in 2001 and 677 in 2002. As of June 19, 2003 there have been 327 new cases opened. The current number of cases in active litigation is 1,148. In 2000, there were 953 cases in active litigation and last year the caseload was 1,276.

### **Statutory and Constitutional Objectives**

In accordance with Tennessee Code Annotated (TCA) 50-6-208(a) and (b), the Department is directed to actively defend the Second Injury Fund. It is the legal team's goal to minimize the Second Injury Fund's contribution to awards and settlements. This program further serves a legal counsel for the Tennessee Department of Labor and Workforce Development responding to information requests both internally and externally.

### **Mandated and Optional Services and Means of Providing Them**

TCA 50-6-208(a) and (b) mandates that the legal representation for the Department of Labor and Workforce Development defend the Second Injury Fund.

Members of the legal team also prosecute TOSHA cases when necessary.

### **Performance Standards**

1. Keep awards paid from Second Injury Fund at or below the level funded in the budget.

### **Performance Measures**

1. Second Injury Fund awards.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$5,379,790	\$5,379,790	\$6,895,900

### **Obstacles to Meeting Objectives and Delivering Services**

Since 2000, support staff in the legal office has been reduced 60% while the number of new cases processed has increased by 50%.



### **Means of Overcoming Obstacles**

The legal office must work to find ways function effectively and efficiently with the current staffing situation.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

This area does not apply to the Second Injury Fund.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Maximize effectiveness on trips by scheduling more than one activity when possible reducing the need for future travels.

### **Future Challenges and Opportunities**

In FY 2003 the Second Injury Fund paid out more awards than contributions were made to the fund. While it is not possible to exactly predict the amount of awards that must be paid from the fund each year, all possible actions must be taken to ensure payouts do not exceed contributions.

### **Performance Data Schedule**

Second Injury Fund follows the same schedule as Workers' Compensation. The Second Injury Fund will report all performance standard measures on a quarterly basis. All data will be available the 15<sup>th</sup> of the month after quarter end. This timeline of release of information will allow those interested to follow trends in workers' compensation claims.

### **Data Verification**

The program managers and the administrator verify the information released on the performance data schedule. More importantly, the Workers' Compensation computer system is able to track this information. This data is accurate and the monitoring system's security is not easily compromised.

### **337.14 Uninsured Employers Fund**

The Uninsured Employers Fund is one of the six programs comprising the Division of Workers' Compensation (337.03). The Uninsured Employers Fund monitors and enforces compliance with insurance coverage requirements of the Tennessee Workers' Compensation Law.

#### **Statutory and Constitutional Objectives**

Tennessee Code Annotated (TCA) Title 50, Chapters 6 and 9 and Title 56, Chapter 47 and General Rules and Regulations Chapters 0800-2 require the Division of Workers' Compensation to administer the state's workers' compensation system. The Uninsured Employers Fund penalizes employers without workers compensation coverage as specified by the law.

#### **Mandated and Optional Services and Means of Providing Them**

State law mandates that the Uninsured Employers Fund ensure that companies properly have workers' compensation coverage and both assess and collect penalties for noncompliance from employers as outlined in TCA 50-6-132, 50-6-412 and TCA 50-6-801. There are no optional services.

The Uninsured Employers Fund is mandated to issue a report annually to the legislature listing each noncompliant employer that failed to provide workers' compensation coverage, the time period of the lapse of coverage and the amount of the penalty assessed and collected. The employer is required to show proof of workers' compensation coverage or provide documentation as to why they are not required to carry workers' compensation coverage. If workers' compensation coverage is obtained, a penalty for the period of noncompliance is assessed at a rate of one and one half times the average yearly workers' compensation premium and collected from the employer. If workers' compensation coverage is not obtained, a penalty for the period of noncompliance is assessed at a rate of two and one half times the average yearly workers' compensation premium. If the employer still does not obtain workers' compensation coverage, the Uninsured Employers Fund may seek an injunction in chancery court to prohibit the employer from operating its business until the employer has obtained workers' compensation coverage.

#### **Performance Standards**

1. Increase the level of employer compliance with the Workers' Compensation Act coverage requirements above the 50 % level among referred employers.

#### **Performance Measures**

1. Level of employer compliance with the coverage requirement of the Worker's Compensation Act.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
48%	50%	52%

## **Obstacles to Meeting Objectives and Delivering Services**

TCA 50-6-801 allows the penalties collected by the Uninsured Employers Fund to be used for payment of costs incurred by the administration of the program. As of this date, penalties collected have not exceeded the amount of administrative costs of the program. Due to staff shortages to resolve cases in a timely manner, there is an increasing backlog of open Uninsured Employers Fund cases.

## **Means of Overcoming Obstacles**

Continued replacement of computer technology enables the program to improve efficiency. This includes use of new technology through software or Internet based applicants. A three-year plan to replace five computers and four printers is in place.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There is no source of federal funding available to the Uninsured Employers Fund.

## **Means of Avoiding Unnecessary Costs and Expenditures**

State and internal audits provide annual financial and compliance and performance reviews of the Uninsured Employers Fund.

The Department's Division of Administrative and Fiscal Services, along with the Administrator of the Division of Workers' Compensation, monitor and review actual expenditures of the Uninsured Employers Fund regularly.

## **Future Challenges and Opportunities**

The Uninsured Employers Fund must continue to find ways to become more efficient in its operation and continue to investigate noncompliant employers to help eliminate any backlog of cases that may occur.

## **Performance Data Schedule**

Uninsured Employers Fund will report all performance standards on a quarterly basis, available the 15<sup>th</sup> of the month after quarter end. The Uninsured Employers Fund is mandated by TCA 50-6-132 to report annually to the legislature a listing of each noncompliant employer that failed to provide workers' compensation coverage, the time period of the lapse of coverage and the amount of the penalty assessed and collected. This timely release of information will allow those interested to follow trends in Uninsured Employers Fund.

## **Data Verification**

The program manager and the administrator of the Division of Workers' Compensation verify the information released on the performance data schedule. This data is accurate and available on a quarterly basis.

## **Labor Standards**

### **337.06 Labor Standards**

The Division of Labor Research, Standards and Statistics consists of support staff; employees responsible for reporting and recording statistics for the following surveys: Census of Fatal Occupational Injuries, OSHA Log Data Collection Survey and OSHA Recordkeeping; and inspectors who regulate the following laws: Child Labor Act, Wage Regulation Act, Prevailing Wage Act, and Employee Assistance Professional Licensing. The Prevailing Wage Commission consists of five members. The Employee Assistance Professional Board (EAP) consists of five members.

## **Statutory and Constitutional Objectives**

Tennessee Code Annotated (TCA) 12-4 -4 (The Prevailing Wage Act of 1975) establishes and enforces the guidelines for minimum wage of different job classifications to be paid on state-funded highway and building construction projects.

TCA 50-2 (The Wage Regulation Act) establishes and enforces the guidelines for payment of wages to Tennessee employees by Tennessee Employers.

TCA 50-5 (The Child Labor Act of 1976) establishes and enforces the guidelines for employment of minors by Tennessee Employers.

TCA 62-42 establishes, regulates, and licenses Employee Assistance Professionals practicing in Tennessee through the Board of Employee Assistance Professionals.

The Occupational Injuries and Illnesses Survey (OSH) and the Census of Fatal Occupational Injuries (CFOI) are authorized by the OSHA Act of 1970, Public Law 91-596.

The OSHA Log Data Initiative Survey is authorized by The Occupational Safety and Health Act, 29 U.S.C. 657 and 673, and reporting regulations at 29 C.F.R. Part 1904.

## **Mandated and Optional Services and Means of Providing Them**

The Prevailing Wage Act mandates that wage earners be protected from unfair practices regarding pay on state-funded building and highway construction projects. Payroll records are reviewed on all on-going building projects to ensure compliance with the prevailing wage rates. Job sites are visited and employees interviewed during routine investigations and investigations of employee complaints. Penalties are not currently assessed for violations of the Act. The Act also requires the Department of Labor and Workforce Development to conduct surveys to determine wage rates for various job classifications for state-funded construction projects.

The Wage Regulation Act mandates employers in private employments of five or more have a number of responsibilities: To inform all employees of the amount he/she will be paid prior to work being performed; establish and maintain regular paydays at least twice per month; and provide a 30 minute rest or meal break if the employee is scheduled to work six hours or more. The Act protects employees from sex discrimination in relation to wages with the same job. Labor Standards is tasked with ensuring compliance with the statute through investigation of written complaints.

The Child Labor Act mandates that any minor under the age of 18 be protected concerning hours of work, hazardous occupations and meal breaks. A minor must be 14 years of age to be gainfully employed. Investigations are mandated at all places of employment where minors are likely to be employed. On-site inspections are initiated by complaint, report of minor injury, and routine scheduling. Penalties are assessed for non-compliance of this statute.

An optional service provided in conjunction with Child Labor is deliverance of lectures to interested parties educating them in the Child Labor Law. These lectures outline the responsibilities of the employer and are target employers who have been cited for violations as well as employers wishing to avoid violations. Lectures are provided free of charge once a month in the Nashville Office with plans to expand to East and West Tennessee in the near future.

Employee Assistance Professional Licensing is an optional service that issues licenses to applicants who have met the minimum requirements. An EAP program is a worksite-based program designed to assist in the identification and resolution of productivity problems associated with employees impaired by personal concerns including but not limited to: health, marital, family, financial, alcohol, drug, legal, emotional stress or other personal issues that might adversely affect an employee's job performance. The applicant's qualifications are verified by office staff and then submitted to the Board for review and disposition. Fees are collected for application and renewal of licensure.

To further the purposes of OSHA, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and maintain an effective program of collection, compilation and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this Act, but shall not cover employments excluded by Section 4 of the Act. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

The Occupational Safety and Health Act allows OSHA to collect reports on OSHA recordkeeping. Companies that do not comply may be subject to enforcement actions.

## Performance Standards

1. Collect penalties assessed for violation of the laws.
2. Improve response rate of Prevailing Wage Survey by 10%.
3. Increase the number of on-site routine Prevailing Wage Inspections by 50%.
4. Perform Child Labor Inspections in every county in the state twice per year.
5. The Occupational Injuries and Illnesses (OSH) Survey rate will meet The Bureau of Labor Statistics' requirement of an 85% response rate.
6. OSHA Log Data Collection Survey rate will meet OSHA's requirement of an 85% response rate.

## Performance Measures

1. The percentage of Child Labor and Wage Regulation assessed penalties collected.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	97%	100%

2. Response Rate for Prevailing Wage Survey.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
15%	20%	40%

3. Percentage of Routine Prevailing Wage Inspections.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
50%	60%	75%

4. Percentage of Counties visited twice per year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
64%	75%	100%

5. OSH Survey response rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	99%	100%

6. Log Data response rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	99%	100%

## Obstacles to Meeting Objectives and Delivering Services

There is a lack of employer response to the OSH Survey, and frequently it is difficult to obtain the correct mailing address of the employer. This leads to log data problems.

### **Means of Overcoming Obstacles**

By contacting employers by phone and increasing the number of mailings to the employer, the division can insure that data is collected.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

By making sure that all surveys that are completely or partially federally funded are completed on time and with correct data, the division can insure that the federal funds are being used in the intended manner.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Internet applications are utilized whenever possible to disperse informational materials to the public. Required posters and forms are available for download and printing, which avoids costs to the Department for printing and postage.

Developments are in progress to make the Prevailing Wage Survey available via Internet, which will also save the Department for printing, postage and personnel processing.

Internal and external audits are necessary to prevent overspending. An external audit is done on the OSH Survey each year by the Bureau of Labor Statistics.

Increasing the number of Internet responses and allowing responses for the surveys to be sent via e-mail should be explored to save on postage charges.

### **Future Challenges and Opportunities**

The current Labor Standards Program utilized by the inspection staff is quickly becoming obsolete. The current program will not support significant increases in inspectional activity. Program improvements have not been factored into the ISM three year plan.

By expanding the division's working relationship with the Bureau of Labor Statistics, the division can insure statistics are the most current.

### **Performance Data Schedule**

Weekly activity reports are submitted to the Department Administrator. A monthly penalty collection report is also submitted to the Administrator. All data will be available on the 15<sup>th</sup> of the month following quarter end.

The Bureau of Labor Statistics and OSHA provide a performance data schedule of when data will be available. All programs have federal deadlines. A statistical report is done annually for the OSH Survey and CFOI.

## **Data Verification**

Inspection reports are audited by the Director upon completion to ensure all documentation has been included. EAP applicant information is verified by office staff and through affidavit of applicants. Prevailing wage survey data is verified by perjury statement and follow-up phone calls by office staff. Division staff verifies the data received from the employer. In turn, the U.S. Department of Labor BLS and OSHA verify the information.

## **Employment and Workforce Development**

### **337.07 Employment and Training**

The division of Employment and Training's implementation of the Workforce Investment Act (WIA) Title I program has two main objectives. One objective is to create a seamless system that addresses the employer's needs for skilled workers. The second objective is to assist job seekers needing job training in order to further their careers. This training enables them to obtain better earnings, thus closing the gap between job seekers and labor market demands. WIA funds three separate programs, these are: programs for youth, programs for adult and programs for dislocated workers, who have lost employment through no fault of their own. The objectives of this program are to provide services to jobseekers and employers, as well as, to provide skills upgrade to employed workers (Incumbent workers). The Senior Community Service Employment Program (SCSEP) was merged into Employment and Training effective July 1, 2003. This program serves persons with low incomes who are 55 years old or over and have poor employment prospects.

### **Statutory and Constitutional Objectives**

The Workforce Investment Act (WIA) Title I program mandates that all three funded federal programs (youth, adults and dislocated workers) receive the following services:

Section 134 (d) (2) of the Workforce Investment Act authorizes core services, with no eligibility requirements, for all adults. These core services include: job search and placement assistance; career counseling; labor market information that identifies job vacancies and needed skills for in-demand jobs, and identifies local, regional and national employment trends), initial assessment of skills and needs; information about available services and follow-up services to help customers keep new jobs.

Section 134(d) (3) authorizes intensive services including more comprehensive assessments; such as development of individual employment plans; group and individual counseling; case management and short-term pre-vocational services.

Section 134(d) (4) requires qualified customers who are not able to find jobs after receiving intensive services, to receive training services linked to local job opportunities. These training services may include occupational-skills training; on-the-job-training; entrepreneurial training;



skills upgrade; job-readiness training; and adult education and literacy activities in conjunction with other training.

With the exception of the adult program, which has no eligibility requirements and is universally provided to all adult participants, youth and dislocated worker programs have eligibility criteria that must be met by individuals who want such services.

Employment and Training of the Department of Labor and Workforce Development is designated by the federal government as the Senior Community Service Employment Program (SCSEP) agency for Tennessee. These services are federally mandated by Title V of the Older Americans Act.

### **Mandated and Optional Services and Means of Providing Them**

The three mandated services (core, intensive and training) are provided through the Tennessee Career Centers System to eligible individuals. The system is an integrated, statewide delivery system mandated by WIA. Depending on the location of a career center, it can house 15 to 17 partners representing agencies concerned with the labor and human potential development. Each Local Workforce Investment Area (LWIA) in Tennessee has at least one comprehensive center. Each LWIA also has other satellite offices providing services for rural communities. To compile information on these services, Employment and Training along with other state partners has opted to develop a common data collection system known as the enhanced Case Management Activities Tracking System (eCMATS). Incentive funds are also awarded to LWIAs meeting performance measures mandated by USDOL. Additionally, this data collection system is used for monitoring deficiencies in the system and for monitoring non-compliance with federal and state law and regulations.

The division conducts mandated statewide services required by WIA section 665.200, including Rapid Response. The division has placed eight area Rapid Response coordinators who respond to mass layoffs or closures for those who have lost their job anywhere in the state. Rapid Response services are restricted to dislocated workers. The career centers in each Local Workforce area disseminate information regarding services offered through the WIA program. These services are offered to individuals (adults and dislocated workers) and include information about eligible providers of training services (including those providing non-traditional training services), and information identifying eligible providers of on-the-job training (OJT) and customized training. Individuals seeking services can also find performance and program cost information along with a list of eligible providers of youth activities.

The Senior Community Service Employment Program (SCSEP) has two services mandated by the Older Americans Act: to provide useful community services and to foster individual economic self-sufficiency through training and job placement in unsubsidized jobs. Services provided include up to 20 hours a week of part-time employment in community service assignments, job training related education opportunities and opportunities for placement into unsubsidized jobs.

Employment and Training contracts for the following statewide services that are mandated or optional:

The Tennessee Higher Education Commission (THEC), in conjunction with the Employment and Training Unit, monitors and coordinates the state's Eligible Training Provider Certification

System, a federally mandated service. THEC also performs investigations, on-site visits, maintains student records of closed institutions and conducts a state level appeal process to determine whether a denied provider should be deemed eligible to participate on the State Provider's List. The eligibility period for training providers is from July 1 until June 30 (each fiscal year.). The procedures for subsequent eligibility determination will include a review of each eligible program that has served a minimum cumulative of 10 Workforce Investment Act supported students from the time of its initial eligibility until the time of analysis. The training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider. If the provider does not meet the established performance levels, it will be removed from the eligible provider list.

The University of Memphis assists Employment and Training in the development of quarterly and annual Workforce Investment Act participant and performance reports, a mandated program. The University responds to requests from Local Workforce Investment Areas regarding information on customer satisfaction surveys as well as issues related to performance measures. They also assist with matters pertaining to eCMATS, statewide evaluations and state and local board technical assistance.

The Tennessee AFL-CIO provides Technical Assistance to those businesses and organizations having collective bargaining agreements with labor unions in the state. The AFL-CIO, in conjunction with the Employment and Training Section, assists workers who have lost their jobs due to layoffs or plant closures. Through this mandated service, AFL-CIO and Employment and Training work together helping these dislocated workers find and retain employment.

Jobs for Tennessee Graduates, an optional program that is a Jobs for America's Graduates national program affiliate, assists at-risk and/or disadvantaged youths graduate from high school and find and maintain quality employment. Students receive classroom instruction, community orientation and career exploration activities. Jobs for Tennessee Graduates requires student competencies in 37 different areas, thus meeting WIA goals for work-readiness, occupational skills training (where appropriate) and for a high school diploma.

## **Performance Standards**

1. Increase the Adult Credential and Employment Rate.
2. Increase the Dislocated Worker Credential and Employment Rate.
3. Increase the Older Youth Credential and Employment Rate.
4. Improve the Younger Youth Diploma/Equivalent Rate.
5. Increase the Employer Satisfaction Rate.

## **Performance Measures**

1. Adult Credential and Employment Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
58%	59%	60%

2. Dislocated Worker Credential and Employment Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
58%	59%	60%

### 3. Older Youth Credential and Employment Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
48.5%	49.5%	50.5%

### 4. Younger Youth Diploma/Equivalent Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
63%	63%	64%

### 5. Employer Satisfaction Rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
76%	77%	78%

## Obstacles to Meeting Objectives and Delivering Services

Tennessee faces the possibility of plant closures and/or mass layoffs. The obstacle associated with such job loss is local area need for additional statewide funding. In 2002, local areas requested more than \$6,000,000 in additional statewide funding to provide services to adults and dislocated workers due to plant closures and skills upgrade for future employment.

The reduction of federally funded youth and adult programs are 9.05% and 13.16% for Program Year 2003, respectively. These amounts allocated for Program Year 2003 reflect a total reduction of \$4,505,496 in federal funds that were allotted to Tennessee's youth and adult programs for Program Year 2002.

Federal regulations do not allow for providing Individual Training Accounts in the youth program. As a result, older youth needing to be issued Individual Training Accounts are unable to take advantage of the large amount of funding in the youth program, while they are enrolled as youth. Since the funding in the adult program is limited, older youth will remain in the youth program and will not receive the trainings they need.

## Means of Overcoming Obstacles

If funding the career centers system becomes burdensome, Employment and Training plans to request direct funding from the U.S. Department of Labor (USDOL) for Tennessee centers.

Technical assistance will be provided to local areas that need support. Typically, local areas may require assistance in the area of performance and/or other board policy issues.

Due to limited funds for adult programs, the state may apply for a waiver in which older youth will be able to use the Individual Training Accounts generally associated with the adult programs. Applying for and receiving such a waiver would allow for better use of expenditures within the youth budget; it would also allow more funds to be used for the adult population.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Section 129 and Section 134 of the WIA describe how WIA Title I funds are to be used and what kinds of activities are to be carried out with these funds. Activities that assist participants with core, intensive, and training and support services are allowable. Additionally, rapid response services and activities for the youth, as well as administrative funds, are allowed. No state matching funds are required for the WIA Title I program. WIA Title I funds are allowed for expenditure for a three year period, and then unexpended funds are returned to the federal government. To date, the division has been able to expend all available funds within the three years.

To ensure that funds are used where they are most needed, the division is developing a process for deobligating and reallocating funds. This policy will take effect during the month of October 2003. The policy will require LWIAs to expend certain percentages of funds the LWIA receives on any given year. The division will calculate the differences between required level and the actual level of LWIA expenditures. Any difference between the required and the actual expenditure will be recaptured by the state and redistributed to areas requesting additional funds, fulfilling their expenditure obligations, with the exception of the LWIA who is deobligating the funds.

Upon review of local WIA requests for additional statewide funds, the division approves funds based on amount of expenditure and urgency of need. In addition, Employment and Training requires progress reports from local workforce investment areas, as well as other state contracted agencies receiving funds for incumbent worker and/or statewide funded programs.

The Senior Community Service Employment Program (SCSEP), funded under Title V of the Older Americans Act is 90% federally funded. The non-federal share of costs may be in cash or in-kind, or a combination of the two, and shall be calculated in accordance with 29 CFR 97.24 or 29 CFR 95.23, as appropriate. Federal Funding is being maximized at this time.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Employment and Training utilizes Section 128(b)(3) and 133(b)(3) of the WIA Title I regulations to distribute available funds to local areas. Eighty-five percent of the youth and adult funds are allocated to local areas by formula. Five percent is used for state administrative purposes. Ten percent of the total youth and adult funds are retained at the state level and distributed to local areas as the need arises.

Employment and Training has contracted with the Department of Finance and Administration to monitor programs in each LWIA. Fiscal monitors are also assigned to ensure the LWIAs comply with federal and state regulations and policies. Additionally, each LWIA conducts in house monitoring of its sub contractors to ensure compliance.

## **Future Challenges and Opportunities**

There are several challenges and opportunities facing the Department in the near future and beyond. One of the challenges the Department faces is finding ways to predict the types of

industries that will be created within the state and the type of industries that move to the state, including the skills job seekers need to staff these industries. The second challenge is developing a mechanism for delivering training services to youth that are not ready to continue higher education or have dropped out-of school.

The new Title V federally proposed regulations are out for comment at this time. The new regulations will produce new performance measures and indicators for the Senior Community Service Program (SCSEP) service that will necessitate more recordkeeping in order to report to the service information to the federal government. The state Senior Community Service Program (SCSEP) will upgrade the SCSEP electronic data management system to ensure that accuracy and timeliness of reporting is maintained. In addition, Employment and Training will provide training and technical assistance for the sub-project staff to address the collection of this data.

### **Performance Data Schedule**

Employment and Training will report all performance standard measures on a quarterly basis. All data will be available the 15<sup>th</sup> of the month after quarter end. Local Workforce Investment Areas are required by Employment and Training to submit progress reports on both program and performance data. Quarterly progress reports regarding program activities are submitted to Employment and Training by local areas disseminating services that have been provided during the allotted time period. The program report provides information relative to local boards, youth services, career centers, eCMATS, employer services and regional progress. The program progress reports are usually received three times a year as the planning process covers one period in which local areas would typically provide a progress report. The reports are available on January 15, July 15 and October 15. During the April 15 timeframe, local areas are providing current information about their local programs at the Tennessee State Workforce Development Board State Planning Committee meeting.

Performance data regarding adult, youth (older and younger), dislocated worker and customer satisfaction data for participants and employers is collected on a quarterly basis as well. These reports are collected and then sent to USDOL for review and feedback. The reports are available each January 15, April 15, July 15 and October 15 of the current program year.

### **Data Verification**

Data is collected on a quarterly basis for statewide and local review. The statewide information is forwarded to the federal government quarterly and annually. Information for each of the 17 measures, all new enrollees and all exiters are collected for the reports. Statewide reports are compared to other states within the region each quarter and annually. The University of Memphis has been contracted to assist with calculating the quarterly reports, verifying participant employment and to conduct the customer satisfaction surveys. In addition, they have been gathering the information since the implementation of WIA. Cumulative data is being studied for a predictive model. This model will assist with estimating participant outcomes and lay the framework for building program performance adjustment models for the state and local areas.

### **337.09 Adult Basic Education**

Adult Education was established by Public Law 105-220. The division also administers the educational component of Families First for the Department of Human Services. Additional responsibilities lie in the area of administering the GED program, which includes monitoring testing centers and diploma issuance. Adult education provides services below the post secondary level for individuals, who are 16 years of age, not enrolled in secondary school, lack sufficient basic educational skills or are unable to speak, read or write the English language.

### **Statutory and Constitutional Objectives**

Adult Education is mandated by Title II, Workforce Investment Act of 1998, Adult Education and Literacy. This Title creates a voluntary partnership among the federal government, states and localities to provide adult education and literacy services to assist adults to become literate, obtain the knowledge and skills necessary for employment and self-sufficiency, and assist adults in the completion of a secondary school education.

### **Mandated and Optional Services and Means of Providing Them**

Title II, Workforce Investment Act of 1998, Adult Education and Literacy mandate the Adult Education services, which include:

Adult Education (AE) includes instruction to students reading at 0-8.9 grade level equivalent. Instruction may include life skills training, citizenship and employability skills. Employability skills may include a range of instructional services such as education and training in job readiness, job skills, life skills, job seeking skills, basic computer skills and job retention activities.

Adult Secondary Education (ASE) includes instruction to students reading 9.0 and above grade level equivalent at a higher level than those for Adult Education.

Workforce Development activities take two forms. First are workplace literacy activities for employees of a particular workplace. The second form of workforce development services focuses on preparing people for work or for career advancement

English Literacy includes programs of instruction designed to assist students of limited English proficiency achieve competency in the English language.

Adult Education for correction education and other institutionalized adults provides services that preparing them for a successful transition into the community, helps them acquire the social, survival and personal management and employment skills necessary to function in the family, community and workplace and prepares them to earn a GED.

Family Literacy services follow the Workforce Investment Act to incorporate all four components necessary for a successful family literacy project, including: interactive literacy activities between parents and their children, training for parents regarding how to be the primary teacher for their children and full partners in the education of their children, parent literacy training that leads to

economic self-sufficiency, and age-appropriate education to prepare children for success in school and life.

## **Performance Standards**

The U.S. Department of Education negotiates the performance percentages with the Adult Education Director. Tennessee consistently has had higher performance percentages than most states and meets or exceeds them each year. In addition, the NRS mandates Core Outcome measures to be met each year.

As described in Section 212, Performance Accountability System, the Department of Labor and Workforce Development, Office of Adult Education will establish a comprehensive performance accountability system to assess the effectiveness of funded programs to improve the adult education and literacy activities they conduct. The accountability system will help optimize the return on the investment of federal and state funds.

Continuous improvement will drive the Tennessee performance accountability system. Tools for continuous improvement will include the current Web-based reporting system that is uniformly used by all local programs. In addition, the enhanced Case Management and Activity Tracking System (eCMATS) will enable local programs to track participants from their entry into the program to the outcomes they achieve. Programs will have the data they need to monitor their own performance in relation to state goals and make necessary changes in their program.

Performance standards used with local providers will include the following core indicators of performance:

1. Percentage of enrollees who complete an Adult Basic Education program.
2. Percentage of enrollees who complete an English as a Second Language Program.
3. Percentage of enrollees who complete and receive their GED.

## **Performance Measures**

1. Percentage of enrollees who complete Adult Basic Education program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
32.75%	34.75%	36.75%

2. Percentage of enrollees who complete English as a Second Language Program.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
28.4%	30.4%	32.4%

3. Percentage of enrollees who complete and receive their GED.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
42%	44%	46%

## **Obstacles to Meeting Objectives and Delivering Services**

Demand for ESOL instruction by both the private sector and business and industry has grown 33% over the past five years. The division is the sole source of public English instruction for the ESOL adult population.

Another obstacle to meeting objectives is the cost of the GED exam itself. When the test was re-designed, January 1, 2002, the cost rose to between \$55 and \$65, a 30% to 40% increase. The increase has been found to be prohibitive to many students prepared to pass the GED exam.

Grant money received from the U.S. Department of Education cannot be used for bricks and mortar. Establishing Adult Learning Centers in each county is contingent upon the LEA or county funding. As education costs rise and growth continues, the availability of space for AE is becoming more limited.

## **Means of Overcoming Obstacles**

Class size minimums have been increased to accommodate more students. Average quarterly attendance for each class will be tracked through eCMATS and classes falling below the minimum standards will be closed or integrated with other existing classes. This will work well, except in those situations where multi-level classes will have to be formed, as they are less than ideal for both the teacher and the students.

Adult Education programs will have to find ways to function effectively with fewer resources. Training for involvement in the Tennessee Quality Award system using quality management principles and continuous improvement based on the Malcolm Baldrige Criteria for Performance Excellence will reach 100% participation by September 2003, giving local program managers tools for more effective management. This will assist in optimizing available resources.

Extensive training for ESOL instructors and an ESOL in the workplace initiative will provide ways for ESOL instructors to operate more efficiently with less money.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Adult Education programs across the state have formed partnerships with business and industry to provide the services requested by business by sharing educational costs. Business has shown a willingness to use their training dollars to provide specific educational services by cost sharing the amount for instructor pay and materials.

All Adult Education programs are encouraged to have an active Advisory Council and most do. These volunteer organizations with a 501C3 tax-exempt status actively raise money to support local AE programs through fundraisers and other donations. As well as acting as a public awareness tool, they also bring in much-needed local dollars to supplement local AE grants.

Adult Education grants awarded to local entities require a 5 % cash match. This invests the local entity in the AE program and frees up more state and federal dollars.



Regionalization is being studied as a possible means of eliminating extra administrative costs, although there are many identified barriers to this such as the local required 5 % match. Many local programs do not have or are not willing to use their resources for operating programs in adjacent counties.

A Train-the-Trainer method is in place to utilize the best and brightest Adult Education teachers and program managers and utilize them to train their peers on a regional basis. This decreases the cost associated with statewide training and enhances leadership opportunities while offering a more efficient way to deliver training than paying national or state trainers who require high fees and travel costs.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Technical assistance throughout the year is given to local programs by the division's staff. Monitoring class size reduces the number of classes that fall below minimum attendance standards thus reducing instructional costs. Fiscal monitoring is done on a three-year cycle to check for sound fiscal management and adherence to state and federal guidelines.

Line item changes throughout the year must be submitted and approved through the state office. Equipment purchases are approved in advance and checked against inventory lists which local programs are required to keep updated.

A Train-the-Trainer method is in place to utilize the best and brightest Adult Education teachers and program managers.

All written communication between the field and the main office is done via email, saving postage costs, reducing long distance calls, and eliminates some staff travel.

### **Future Challenges and Opportunities**

An opportunity for the state to invest in Adult Education exists in order to meet higher performance standards and growth plan goals. Statistics show that 94.9% of all GED test takers do so for enhanced employment opportunities. More GED graduates means higher wages for the employee and expanded educational opportunities, which enhances the workforce and state tax collection coffers.

The need for adult learning centers still exists in more than half the Adult Education programs statewide. Full-time service, computer labs and a comfortable learning environment cannot be offered when AE programs must use existing community facilities such as schools, libraries or churches to hold classes. It is an added hardship on those AE instructors who must carry their materials in the trunk of their car as they go from site to site to instruct.

Funding sources for test fees must be found to give students without the resources to pay the fee an opportunity to pass the GED exam. Local Advisory Councils and some local businesses pay for some test fees, but the need is greater than existing resources can cover.

Providing distance learning for students with childcare and/or transportation issues is an opportunity for Adult Education growth, but with it comes the challenge of funding for hardware, software, training and staff.

## **Performance Data Schedule**

Adult Education will report all performance standard measures on a quarterly basis. All data will be available the 15<sup>th</sup> of the month after quarter end. Weekly entry of all data entered into eCMATS as of July 1, 2003 is required so that quarterly monitoring can be achieved and problems corrected as they arise. Fiscal monitoring is done on a three-year cycle. An End-of - Year Report that includes a Program Improvement Plan is due on July 30 for the preceding year from all local programs. Reimbursements for Adult Education and Families First expenses are required monthly to closely track spending. The GED Office reports in February for the previous calendar year to the American Council on Education. A program review using the Program Quality Indicators is done yearly. In 2004-05, the instrument will be re-designed to merge with Baldrige Criteria requirements.

## **Data Verification**

A Program Quality Instrument asks for data verification such as student sign-in sheets, minutes from Advisory Council meetings, newspaper clippings verifying community outreach, pre and post-test scores on all enrolled students, class schedules, proof of ADA compliances, needs assessments and other documentation that is needed for compliance issues. Persons taking the GED must provide the GED office with name, social security number, address, the test center where the exam was taken, the date of the exam and a signature.

## **Employment Security**

### **337.10 Employment Security**

Employment Security is a joint federal-state program responsible for Tennessee's Unemployment Insurance, Job Service and Research and Statistics/Labor Market Information programs. All administrative costs are paid from federal unemployment taxes (FUTA).

Unemployment insurance taxes (premiums) finance Tennessee's unemployment insurance benefits program and provide benefits to unemployed workers who have lost their job through no fault of their own. Employers pay premiums on their employees' wages into the Tennessee Unemployment Insurance Trust Fund. This Fund is used solely to pay unemployment benefits to Tennessee's unemployed workers. Unemployment insurance allows the unemployed to pay for necessities during short terms of unemployment.

Job Service is the largest employment agency in the country. In Tennessee, there are 79 offices across the state to provide free labor services for employers and workers. Job application and job orders are entered into a network, which gives job seekers and employers local, state and national exposure. Job Service offices also provide career counseling and aptitude and proficiency tests to help in matching workers with jobs. (Note: this section is discussed under 337.11.)

Research and Statistics/Labor Market Information (LMI) is the major information source on Tennessee's economic climate. LMI is responsible for the collection, analysis, interpretation and dissemination of state and local labor market information. Educators, federal, state and local governments, employers considering expansions, moves or new markets, and workers seeking job opportunities use this information. Labor market information is available free to the public through numerous publications and over the Internet.

There are 79 locations across the state to provide job service and unemployment benefit services. A Call Center in Nashville provides for telephone claims for Middle Tennessee claimants. Eight area Employer Accounts Offices collect premiums, audit accounts and assist employers with their unemployment insurance reporting requirements.

### **Statutory and Constitutional Objectives**

Tennessee Code Annotated (TCA) Title 50, Chapter 7 requires the Division of Employment Security to administer the state's Unemployment Insurance and Job Service Programs.

### **Mandated and Optional Services and Means of Providing Them**

The mandated services inside the Division of Employment Security include:

Field Operations is mandated to deliver Unemployment Insurance and Wagner Peyser Programs in communities throughout the state. The section has 81 locations in Tennessee with a staff that are trained to deliver a variety of workforce development services. It receives and processes claims for unemployment benefits in all areas of the state not served by the Call Center described below. It is through this network of Career centers and local offices that employers seeking qualified workers and job seekers looking for employment are brought together. In addition to these labor exchange activities, field staff process unemployment insurance claims, certify claimants for Trade Act services and refer applicants to partners within the Career Center System when services beyond the division's scope and expertise are needed to enhance an individual's employability or when substantial barriers to employment are noted. This section is mandated by TCA Title 50 Chapter 7 to provide Unemployment Insurance and Wagner-Peyser services to the citizens of Tennessee.

Unemployment Insurance Call Center Operations is mandated to provide unemployment insurance claims, taking services by telephone to individuals residing in an 11 county area in Middle Tennessee as well as those former Tennessee residents who are residing in another state. Title 50 Chapter 7 requires these claims taking services be provided and regulates their delivery.

Benefit Operations is responsible for the processing and payment of claims for Unemployment Insurance benefits mandated by law (TCA 50-7-301). This section is composed of Federal Benefits, Combined Wage, Data Entry, Microfilm, Receipt Unit, Benefit Charge and the Interstate Program Coordinator. Most units in Benefit Operations perform support functions for the Field Offices and the Call Center where the initial claims are taken. Also under this section, is the Benefit Payment Control Unit, which is responsible for the prevention, detection and collection of overpaid benefits. Sections 303(a) (1) and 303(a) (5) of the Social Security Act, Sections 3306(h) and 3304(a) (4) of the Internal Revenue Code and Section 7500 of the *ES Manual*, Secretary's Standard for Fraud and Overpayment, requires that state law include

provisions to deter claimants from obtaining benefits through error or willful misrepresentation, to detect benefits paid through error or willful misrepresentation, and to recover benefits overpaid.

Unemployment Insurance Appeals hears appeals of initial decisions related to eligibility for benefits. It is organized into two statutory sub-sections, the Appeals Tribunal and the Board of Review. The Appeals Tribunal is the first level of appeal. Its hearing officers must hold hearings and issue written decisions in each case. The Board of Review is a panel appointed by the Governor to hear claims appealed for the Appeals Tribunal, aided by a small group of hearing officers. They will either hold another hearing or simply review the record of the prior proceedings before issuing its decision. The Board's decision may be appealed to the Chancery Court. The appeal process is mandated by law (TCA 50-7-304) for parties (claimants and employers) dissatisfied with division decisions on unemployment compensation claims.

Employer Accounts is comprised of multi-units that establish liability of employers, determine tax rates, receive and process all premium reports and maintain individual employer accounting. Also included is the Tax Enforcement Section, which is responsible for the coordinating activities of two central office units and eight field offices in collection of Unemployment Insurance premiums, securing delinquent reports, auditing employer's records and enforcing employer compliance with Unemployment Insurance laws and regulations. This is mandated by TCA Title 50, Chapter 7 and Title 62, Chapter 43.

Unemployment Insurance Technical Services is comprised of three units. These units are Technical Support and Training, Reports and Compliance, and Special Services. The UI Technical Services Section provides technical support and gives information to central and local office personnel, claimants, employers and the general public concerning unemployment insurance claims, the claims process, Employment Security Law, Employment Security Policy, and division decision issues. This includes analyzing legislative impact and preparing procedural guides for implementation and compliance, responding to correspondence and telephone inquiries, coordinating the child support intercept program, developing and delivering specialized training, analyzing and projecting unemployment insurance workload activity, along with conducting federally mandated monitoring functions, maintaining a quality control system, which examines a sampling of UI benefit payments for accurate application of law, rules and procedures, and supports a special projects effort to develop and maintain and monitor automated enhancements to program operations. This is mandated by TCA Title 50, Chapter 7 and Title 62, Chapter 43.

Research and Statistics (R&S) /Labor Market Information produces comprehensive, accurate, timely and properly documented labor market information regarding the economic and demographic characteristics of the people, business and industry of Tennessee. This labor market information is essential for informed decisions by national, state and local government policy makers, professional economist, employers and individual citizens. Through cooperative agreements with the U.S. Department of Labor, Bureau of Labor Statistics (BLS), Research & Statistics (R&S) operates five major programs, which include Current Employment Statistics (CES)/ Field Staff, Local Area Unemployment Statistics (LAUS), Mass Layoff Statistics Program (MLS), Occupational Employment Statistics (OES), and Covered Employment and Wages Program (ES 202). The BLS is authorized to collect labor market information mandated by statute (29 USC 1) and Section 14 of the Wagner- Peyser Act (29 USC 49 f (a) (3) D.)

Employment Security Information Technology is responsible for the development and maintenance of all automated systems for the Employment Security Division. This includes

systems on the Bull mainframe, client-server and web-based applications. In addition, the section is responsible for all data entry that is not handled by users in other sections within the division using PCs or scanners. The mainframe is connected to the state's wide area network (WAN) and the Amdahl mainframe. Applications include: the Employment Security Computer Online Technology (ESCOT), which is the benefit payments and Job Service on-line system, wage records, check reconciliation, premium accounting, statistical reports, cost accounting and more.

The Employment Security Marketing Section is responsible for promoting the products and services for the Department of Labor and Workforce Development. The program's director oversees a staff of marketing representatives out stationed across the state.

### Performance Standards

1. Fully trained Interviewers average between 18 and 20 claims or 75 inquiry calls per day.
2. For the Appeals Tribunal, the promptness standards provide that:
  - a. A minimum of 60% of all appeals to the Appeals Tribunal be heard and determined within 30 days from the date the appeal is filed;
  - b. A minimum of 80% must be determined within 45 days; and
  - c. A minimum of 95% must be determined within 75 days.
3. New accounts are set-up within 90 days of becoming liable.
4. Increase by 5% the employment response rate for the state and sub state areas, while maintaining the unit response rate and the quality of the responses.

### Performance Measures

1. Interviewers average claims or inquiry calls per day.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
18 Claims/75 Calls	16 Claims/60 Calls	18 Claims/75 Calls

2. For the Appeals Tribunal, the percentage of appeals heard and determined within:
  - a. 30 days

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
21%	60%	70%

- b. 45 days

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
49%	80%	85%

- c. 75 days

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
82%	95%	97%

3. New accounts set up within 90 days or less

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
85.1%	85.5%	85.5%

4. Employment response rate.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
73.7%	65%	70%

### **Obstacles to Meeting Objectives and Delivering Services**

Certain obstacles are common throughout the division. An increase in workload due to a sluggish economy and growing state population has created problems to meeting objectives for many sections of this division. Appeals saw an increase of 34% in a three-year period. The more people that are laid off from work, the more people will file for unemployment benefits, which creates increased work for every section. There has also been a shortage of qualified candidates to fill vacancies when they occurred because of the state's low pay for employees. As technology continually changes, the division will need to have more training for employees to keep them able to meet their standards and provide quality service to the public. In addition, the use of technology requires that the continually review and modification of job classifications to provide employees with the skills needed to utilize these technologies.

### **Means of Overcoming Obstacles**

The division could cut down on time and provide a better service by becoming more automated. The UI Call Center Operations Section, UI Technical Services and Information Technology are working with selected vendors to develop and enhance electronic methods of providing these claims, taking services in order to speed up processes, and do more work with less staff. Another method to overcome obstacles is to develop and standardize routine in-house training for new employees, refresher training for more seasoned employees, and utilize all supervisor-training programs provided by the Department of Personnel to increase the skills of staff, and make them more proficient in exercising their duties.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Although all funding is derived from the federal government, the program should take advantage of grant monies. During the past few years, the program has acquired \$1.5 million in federal grant funds to develop and implement telephone and Internet claims taking applications.

### **Means of Avoiding Unnecessary Cost and Expenditures**

Analyzing current operations, making necessary changes to policies and procedures, and utilizing electronic filing and Internet reporting will improve efficiency as well as using part-time and temporary personnel when full time positions are not cost effective.

Federal auditors from the regional office in Atlanta audit the program each year. All purchases and travel requests are approved through the Department and the Department of Finance and

Administration. In addition to the annual federal monitoring reviews, departmental internal auditors as well as, the state auditors from the Office of the Attorney General also monitor Employment Security annually.

### **Future Challenges and Opportunities**

The UI Call Center Operations section faces the challenges and opportunities of expanding remote claims and taking services statewide. This includes: the leasing and build-out of a second physical location, the purchase and installation of equipment, the hiring and training of a significant number of staff, coordination of the transfer of claims taking workload with current Field Operations and local office staff members, further development and enhancement of both telephone and Internet applications, and the development and implementation of an imaging system with capabilities of a scanned mail claim.

Remote claim taking such as telephone claims, mail claims and Internet claims create significant challenges in terms of identity verification. The loss of one-on-one contact inherent in remote claims taking also reduces the amount of direct information and instruction that claimants receive that could prevent over payments.

### **Performance Data Schedule**

Data is gathered weekly, monthly and quarterly for each program that has a performance standard.

Reports for internal and external use, including federal reporting requirements, are available on the 15<sup>th</sup> of the month after quarter end.

### **Data Verification**

In addition to audits, the computer system also verifies information with various data validations routines. Furthermore, data is reported monthly and quarterly to the United States Department of Labor to be validated.

### **337.11 Employment Development**

Employment Development consists of the Job Service Program Support (JSPS) section, which provides technical assistance in specific programs to Job Service local offices and employers. JSPS is one of the sections making up the Employment Security Division. For some programs, JSPS provides services directly to the client. The section consists of the following services: Alien Labor Certification, Food Stamp Employment and Training Program, Housing Inspections, Trade Adjustment Assistance, Wagner-Peyser Act, Work Opportunity Tax Credit Program.

Job Service is the largest employment agency in the country. In Tennessee, there are 79 offices across the state to provide free labor services for employers and workers. Job application and job orders are entered into a network, which gives job seekers and employers local, state and national

exposure. Job Service offices also provide career counseling and aptitude and proficiency tests to help in matching workers with jobs.

## **Statutory and Constitutional Objectives**

20 CFR Part 656 stipulates that before the Immigration and Naturalization Service (INS) may approve petition requests and the Department of State may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor must first certify to the Secretary of State and the Attorney General that the above requirements have been met.

The Personal Responsibility Plan and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997 mandated changes in the Food Stamp Employment and Training Program. Emphasis is now placed on employment and training services for the ABAWD members of Food Stamp households. Quality service will continue to be provided to the regular participants of the program.

Under Federal Regulations at 20 CFR Part 655, Subpart B, the U.S. Department of Labor (USDOL) has established procedures and a systematic process to acquire information sufficient to carry out the requirements of the law. The H-2A provisions of IRCA require the employer to apply to the U. S. Department Of Labor Employment and Training Administration (ETA) for a certification that there are not sufficient workers who are able, willing and qualified, and who will be available at the time and place needed, to perform the labor or service involved in the application, and the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. Conditions that must be satisfied include appropriate wages, workers' compensation and housing meeting the requirements of #1919.142 Temporary Labor Camp Regulations.

The Trade Act of 2002 including the Trade Act of 1974; 20 CFR 617; created a program of trade adjustment assistance to assist individuals, who became unemployed as a result of increased imports, return to suitable employment.

The Wagner-Peyser Act, as amended by the Workforce Investment Partnership Act of 1997, is the statutory authority for the Employment Service's Labor Exchange activities. Section one (1) of the Wagner-Peyser Act states, "In order to promote the establishment and maintenance of a national system of public employment offices, the United States Employment Service shall be established and maintained within the U.S. Department of Labor."

The WOTC Program was created under The Small Business Job Protection Act of 1996 (Public Law 104-188). The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the "State Employment Security Agencies (SESAs) now referred to as State Workforce Agencies (SWAs)" are the "designated" agencies responsible for administering the WOTC and W2W certification procedures of these programs.

The W2W Program was created by Section 801 of The Taxpayer Relief Act of 1997 (Public Law 105-34). The statutory and constitutional objectives of the WOTC Program also apply to the W2W Program. Both programs (WOTC and W2W) are currently authorized under the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).



## **Mandated and Optional Services and Means of Providing Them**

Federal regulations set the process designed to develop information to support the granting of a permanent labor certification. Employers interested in permanently employing immigrant aliens in the U.S. are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Federal-State Employment Service System, and by other specified means. The purpose is to assure that there is an adequate test of the availability of U.S. workers to perform the work and to ensure that aliens are not employed under conditions that would adversely affect the wages and working conditions of similarly employed U.S. workers.

The Tennessee Department of Labor and Workforce Development is the administrator of the Food Stamp Employment and Training Program (FS E&T) grant awarded by the Food and Nutrition Service Division of the U.S. Department of Agriculture. The Department, in collaboration with other public and private agencies, provides employment and training programs for designated Food Stamp clients. The FS E&T Program provides case management, skill training, assistance to participants enrolling in vocational schools and life skills classes.

Trade Adjustment Assistance (TAA) is mandated to provide information and assistance regarding the different types of re-employment services available to TAA eligible workers. Types of services available to the workers are Classroom/Vocational training, OJT training, Job Search Allowance, Relocation Allowance, Custom training, Health Care Tax Credit, and Alternative Trade Adjustment Assistance.

Wagner-Peyser (Employment Service Labor Exchange) – Basic (core) Labor Exchange Services consist of taking, processing, and accepting applications for employment; assessment, counseling, and testing; labor market information, job search assistance, job referral and placement; and placement assistance beyond direct placement such as job development and resume preparation. Title 38 United States Code requires that all Wagner-Peyser services be provided to veterans on a preferential and priority basis.

Tennessee Employment Service law requires the work test be administered to eligible unemployment insurance claimants. The work test requires that all eligible claimants be referred to the Employment Service for work registration and to be provided a work test interview to assess the claimant's primary and additional job qualifications. In addition, the work test provides an avenue of screening claimants for training opportunities offered by Workforce Investment Act (WIA) partners. The work test assessment will provide time to identify and exchange information on potential eligibility issues.

Work Opportunity Tax Credit (WOTC) / Welfare-to-Work Tax Credit (W2W) certification decisions by the SWA must conform to all Internal Revenue Service rules and regulations (Section 51, 51A, and 52 of the IRS Code) governing the operation of these two tax credits and to the policies and interpretations of the U.S. Employment Service and ALMIS, Office of Workforce Investment, U.S. Department of Labor.

## **Performance Standards**

1. Decrease backlog in Alien Labor Certification.

2. Increase the number of clients in Food Stamp Employment and Training program who become employed.

### **Performance Measures**

1. Alien Labor Certification backlog cases.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,212	1,000	800

2. Food Stamp Employment and Training number of clients employed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
1,520	1,572	1,623

### **Obstacles to Meeting Objectives and Delivering Services**

The 245 (i) Life Act of 2000 allowed large numbers of Alien Labor applications to be filed by the deadline date of April 30, 2001. As of that date, ALC received over 2,500 applications. This influx caused and will continue to cause major delays in the review process of all ALC applications. Current processing times indicate a continued backlog of at least four years.

The Able Bodied Adults Without Dependents (ABAWD) population has the least barriers and is probably more likely to utilize other resources to obtain independence, thereby limiting the population the Department serves. Many ABAWDs are homeless and/or lack telephones, making it difficult to contact them.

### **Means of Overcoming Obstacles**

Amendments to the ALC Law have encouraged some employers or their designated agents to request permanent cases received on or before August 3, 2001, to be converted to "Reduction in Recruitment" cases. Doing so enables ALC staff to direct their focus to those cases that cannot be converted.

To overcome contact issues, the division should provide as many services as possible on the initial visit (assessment, job and/or training referrals) and establish a contact date and time for the client to return.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Each year plans are prepared indicating anticipated amounts of cases expected during the coming program year. Federal dollars are then allocated to the states to cover cost of staff time to process cases.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Conduct training sessions that focus on educating service providers in the application of regulations that govern the Food Stamp Employment and Training Program.

More use of the Internet such as application for job services on the Internet and self-referrals to selected job openings via the Internet or local office terminals.

## **Future Challenges and Opportunities**

Development of an automated system whereby collection and transmission of data will maximize the use of staff time, reduce and eliminate some processing errors, and render greater program efficiency is imperative.

The implementation of new benefits and service guidelines under the new Trade Act of 2002 will be one area of challenge. The Health Care Tax Credit (HCTC), Alternative Trade Adjustment Assistance (ATAA), TAA for Farmers, time limits for enrollment, and the new waiver process are all new additions to the law. The challenge and opportunity will be to learn the new parts and how to best use them to benefit eligible workers.

## **Performance Data Schedule**

Data is submitted monthly by the field office staff to the FS E&T Unit for compilation.

All TAA forms and/or training packets must be completed and forwarded to the central office for processing no later than 30 days prior to the enrollment date.

Federal reporting of Labor Exchange Services is performed quarterly and the reporting is due by the middle of the second month following the close of each quarter. Other reporting takes place in the Employment Service on a monthly and quarterly schedule comparing state and local goals and actual activity.

The quarterly programmatic data is reportable to the U.S. Department of Labor by the 15<sup>th</sup> of the month following the end of the quarter.

## **Data Verification**

The ALC unit database includes date of receipt, prevailing wage date, date forwarded to USDOL Regional office and date certified or denied. The use of this database increases the accuracy of weekly, monthly and bi-annual reports.

The data collected on the ABAWD monthly report is compared to the Food Stamp tally sheet during monitoring visits.

A data verification software package is being provided by USDOL to verify data used in computing regular and veteran performance measures.

Data verification is monitored on a quarterly basis by a manual count of certain records to compare with system-generated numbers.

# Transportation, Business, And Economic Development

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# **Department of Agriculture**

## **General Agency Information**

The mission of the Department of Agriculture is: “To serve the citizens of Tennessee by promoting wise uses of our agricultural and forest resources, developing economic opportunities, and ensuring safe and dependable food and fiber.” The Department’s mission is performed within the following programs:

1. Administration and Grants
2. Agricultural Resources Conservation Fund
3. Tennessee Grain Indemnity Fund
4. Certified Cotton Growers’ Organization Fund
5. Market Development
6. Regulatory Services
7. Agricultural Regulatory Fund
8. Forestry
9. Forestry Maintenance

Department and division headquarters are located at Ellington Agricultural Center; regional offices, district and area forestry offices, and forestry work centers are dispersed throughout the state. The Forestry Division operates two tree seedling nurseries - one in East Tennessee at Delano and one in West Tennessee at Pinson.

## **Administration and Grants**

### **325.01 Administration and Grants**

Administration and Grants includes the Commissioner’s Office, budget, legal services, personnel, public affairs, agricultural statistics, and other administrative service offices that provide department wide support and direction. Also funded within this allotment code are service areas in: 1) Water Resources, 2) Commodity Distribution, 3) Agricultural Crime Enforcement, and 4) Boll Weevil Eradication. All offices for the Administration and Grants Program are located at Ellington Agricultural Center.

The Water Resources service area encourages and promotes stewardship of natural resources by partnering with landowners, soil conservation districts, resources conservation districts, universities, and other agencies to provide funding for activities directed at improving water quality. The section is responsible for administering both the federally funded nonpoint source water quality protection program (Section 319-H, Federal Clean Water Act) and the state-funded Agricultural Resources Conservation Fund (allotment code 325.08).

The Commodity Distribution service area administers USDA’s surplus food distribution program for the National School Lunch Program. This program supports American agriculture while

providing nutritious food to schoolchildren. The section also administers the Emergency Food Assistance Program, which supplements the diets of low-income persons.

The Agricultural Crime service area investigates, makes arrests and prosecutes wildfire arson, livestock theft and other farm and agriculture related crimes, as well as other criminal activities related matters regulated by the Department like pesticides, animal health, the sale and transportation of plants and plant materials, and crimes that occur on state forest lands.

The Boll Weevil Eradication service area coordinates activities aimed at the elimination of the boll weevil in Tennessee. Funds utilized by the Section are in allotment code 325.01 (administration and grants) and in allotment code 325.14-Certified Cotton Growers' Organization Fund (producer assessments).

### **Statutory and Constitutional Objectives**

Water Resources services are authorized in the federal Clean Water Act, 33 USC Sec. 1329, and has the responsibility for carrying out the services as delegated to the state through the US Environmental Protection Agency. The Governor officially designates the lead agency for the service area. In 1994, Governor McWherter designated the Tennessee Department of Agriculture as the lead agency.

Commodity Distribution service efforts are conducted under the guidance of Federal Legislation: Richard B. Russell National School Lunch Act, Child Nutrition Act of 1966, and Emergency Food Assistance Act of 1983 and Federal Regulation: Title 7, Code of Federal Regulations, Parts 250 and 251.

The officers of the Agricultural Crime service area are charged with the same statutory and constitutional duties as any other commissioned law enforcement officer. They are charged with the enforcement of the laws of the state and are obligated to investigate, make arrests and prosecute those who violate these laws. Additionally, under TCA 4-3- 203(9) the Unit's officers are given the authority to "enforce all of the penal and regulatory laws of the state in the same manner and with like authority as the sheriffs of the counties."

TCA 43-6-401 through 43-6-431 declares the boll weevil a public nuisance and provides the framework for operation of a boll weevil eradication effort.

### **Mandated and Optional Services and Means of Providing Them**

Subject to provisions of the federal Clean Water Act, the Nonpoint Program contracts with local governmental entities, universities, nonprofit groups, and state agencies to achieve the goals and objectives of the Clean Water Act, as identified in the Management Program Document.

Participation by the State of Tennessee in both the USDA School Lunch Program and the USDA Emergency Food Assistance Program is optional. Non-participation would mean the loss of millions of dollars in administrative funds and commodities.

Agricultural Crime services cannot be distinguished as mandated or optional. They are simply provided based upon priority. Priority is determined by the seriousness of the crime that has been committed and the availability of evidence. Obviously felonies generally take priority over

misdemeanors and crimes against persons take priority over crimes against property.

TCA 43-6-403 mandates the Commissioner to carry out programs to destroy and eliminate boll weevils in this state. The Department of Agriculture works in conjunction with the Tennessee Boll Weevil Eradication Foundation, Inc. (TBWEF), a non-profit organization charged with the oversight of the program, to carry out the mandate of the cotton growers following a successful referendum. The TBWEF contracts with the Southeastern Boll Weevil Eradication Foundation, Inc. (SBWEF) to carry out program operations. The SBWEF is a non-profit organization formed by nine cotton-producing states in the southeastern United States for the purpose of eradicating the boll weevil in the respective states.

### **Performance Standards**

1. Improve water quality in Tennessee utilizing federal funds available from EPA and approved in the 319 Management Program Document.
2. Increase awareness of effective water quality practices utilizing federal funds available from EPA and approved in the 319 Management Program Document.
3. Maximize use of commodities allocated from USDA in the School Nutrition Program.
4. Maximize use of commodities allocated from USDA in the Emergency Food Assistance Program.
5. Successfully resolve cases investigated, by prosecution or compliance.
6. Successfully prosecute persons arrested.
7. Investigate cases reported to the crime unit.
8. Obtain awards of restitution and suppression cost sought through prosecution and/or plea bargain.
9. Eradicate boll weevils.

### **Performance Measures**

- 1.a. Number of Best Management Practices (BMPs) installed within impaired watersheds.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
125	150	250

- b. Number of Best Management Practices (BMPs) installed within threatened watersheds.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
20	30	60

2. Number of outreach and educational projects sponsored.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
8	8	10

3. The percentage of School Nutrition allocation distributed.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
90%	92%	94%

4. The value of Emergency Food Assistance Program allocation distributed.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
99%	99%	99%

5. Resolution rate of cases investigated (cases resolved as a percentage of cases investigated).

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
Not Available	70%	75%

6. Successful prosecutions of persons arrested (convictions as a percentage of arrests).

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
Not Available	85%	90%

7. Investigation response (cases investigated as a percentage of cases referred to the Unit).

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
55%	60%	65%

8. Recovery of restitution and suppression costs (awards granted by the courts as a percentage of costs requested).

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
Not Available	90%	90%

9. The average number of boll weevils trapped per trap per week.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
1.38	.20	.00

### **Obstacles to Meeting Objectives and Delivering Services**

The most significant obstacle to meeting water quality objectives is obtaining the participation of local landowners and local partners to install BMPs that will collectively reduce the nonpoint source pollutant loading to a given water body so that it will be removed from the list of impaired streams compiled by the Department of Environment and Conservation.

The greatest obstacle to meeting eradication objectives has been the existence of a non-program area in northeast Arkansas. This area contains approximately 330,000 acres of cotton in Mississippi County and eastern Craighead County. For various reasons, this area has refused to

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implement a boll weevil eradication program, in spite of substantial assistance offered by parties interested in the completion of the program. As a result, natural weevil migration continues to plague the counties of West Tennessee that are adjacent to this area. As proof, in 2002, 86% of the boll weevils captured in West Tennessee were captured in the five counties bordering the Mississippi River, although this area grows only 28% of the cotton in West Tennessee. Only one reason can be argued for this occurrence, and that is weevil migration from northeast Arkansas.

Secondly, as a national security precaution following the terrorists attacks of 9/11/2001, the Federal Aviation Administration (FAA) imposed a 30-mile no-fly zone around Memphis International Airport preventing aerial BWEP insecticide applications at a critical time on approximately 55,000 acres of cotton in Shelby, Tipton and Fayette counties. This grounding of aerial application operations allowed weevils, that otherwise would have been exterminated, to reach a state of diapause and survive to reproduce the following year.

### **Means of Overcoming Obstacles**

A variety of financial incentives are available to be offered to local landowners in order to obtain their cooperation. Also, providing information and guidance to local partners about program objectives should increase participation.

The Arkansas State Plant Board has proposed operating a mandatory boll weevil eradication program in northeast Arkansas under authority of a long-standing nuisance law.

While terrorist threats remain, the no-fly zone issue has currently been resolved and a good working relationship has been fostered between program managers and airport authorities.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funding through the 319 Grant will continue if EPA and Congress are kept informed of progress by the states in achieving measurable reductions in nonpoint source pollution. Recent involvement with the efforts in the Mississippi River watershed to reduce the nutrient loadings to the Gulf of Mexico in order to reduce the zone of hypoxia in the Gulf may result in increased federal funding for nonpoint source projects in Tennessee. Local sources of non-state revenue may be accessed through pollutant trading and Source Water Assessment activities, as local utilities realize the economic value of reducing nonpoint source pollution in the waterbody that serves as the drinking water supply or the receiving stream for treated wastewater effluent.

Requirements for utilization of federal administrative funds are detailed in Title 7, Code of Federal Regulations, Parts 250 and 251. For TEFAP, there is a matching requirement for any federal funds retained for use at the state agency level.

The Agricultural Crime service area makes every effort to recover restitution and suppress costs in every criminal prosecution.

State and federal elected officials from cotton growing states, in conjunction with cotton growers as represented by the National Cotton Council, have been successful in procuring a substantial increase in the federal appropriation for boll weevil eradication in recent years. For example, in 1999, due to a substantial expansion of the program, the federal appropriation as a percentage of

cost dropped to approximately 5%. Today the federal appropriation funds approximately 30% of program costs. Since 1998, Tennessee cotton growers have received \$12.1 million from federal appropriations.

Tennessee cotton growers have also been beneficiaries of the contractual relationship between TBWEF and SBWEF. Cotton growers in the southeastern United States have contributed approximately \$2.6 million to support eradication efforts in Tennessee. This funding source speaks volumes concerning the importance of belt wide eradication to those who have already made the investment and completed the program.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Federal Clean Water Act grant requires compliance with established rules for procurement, as maintained in Office of Management and Budget Circulars. Further, state contracts stipulate requirements for grantees, to ensure costs are competitive and reasonable.

The Division of State Audit in its Single Audit for the year ending June 30, 2002 included one finding concerning Commodity Services. The Single Audit recommended that the Department of Agriculture should coordinate with the Office of Program Accountability Review (PAR) to ensure recipient agency reviews encompass all required areas. Department staff have met with PAR staff and established monitoring plan review procedures covering all required elements.

Monthly payments to emergency feeding organizations are carefully reviewed to ensure all items listed qualify as eligible expenses.

Eradication area managers work closely with USDA's Agricultural Research Service (ARS) in developing cost saving measures. For instance, the rate of Malathion aurally applied by program operations has been reduced from 16 ounces per acre to 10 ounces per acre. Trapping densities have also been reduced in an effort to reach the optimal level that provides adequate monitoring capabilities with minimum personnel requirements.

The Division of State Audit recently completed a performance audit of the Department. An exit conference was held on July 9, 2003 to discuss possible finding and areas of concern. When the draft report is received, the Department will begin to address the items included in the audit.

### **Future Challenges and Opportunities**

Future opportunities exist in the context of new partnerships with organizations that have the ability and access to funding to make improvements to the landscape to lessen the impact on waters from nonpoint source pollution. Challenges in effectively marketing the conservation products to the individual landowner, and making citizens aware of their collective contributions to nonpoint source pollution will remain constant.

The Department is using USDA's new online ordering system to order all foods for FY2004. USDA may make the system available to capture information directly from schools as early as FY2005. Extensive training at the school level will be necessary, but will allow for an unprecedented flow of information between the Department and the schools.

Agri-terrorism and other Homeland Securities issues are posing both challenges and opportunities

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and will continue to do so in the future.

Weevil migration from northeast Arkansas can only be properly addressed by the implementation of an eradication program in that area. Until that occurs, adjusting insecticide application thresholds will minimize unnecessary costs. This adjustment is made in an attempt to adequately protect cotton from weevil damage with as few insecticide applications as possible. Once the migration issue is resolved, treatment thresholds will be lowered to the proper levels and eradication completed. In other words, as long as the weevil migration problem exists, the goal of eradication is unattainable. Therefore the current objective must be changed to that of preventing economic damage to the cotton crop.

Future opportunities present themselves in fully realizing the stated economic and environmental goals of boll weevil eradication that have been proven to exist in states where eradication has been completed. These include a 40-90% reduction in cotton insecticide use, and a 10% yield increase. These are benefits that accrue not only to the cotton grower but also to the general population.

Streamlining administrative function when the containment phase of the program is reached will also present opportunities, along with challenges. Especially when nationwide eradication is achieved, revenue collection methods could evolve from the current per acre assessment to a per bale assessment collected by cotton ginner.

### **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

### **Data Verification**

Project data is verified by Regional Administrators and subsequently reviewed by staff within the Water Resources Section.

USDA verifies percentage of entitlement used for nutrition assistance.

### **325.08 Agricultural Resources Conservation Fund**

The Agricultural Resources Conservation Fund (ARCF) Grant Program awards contracts for the purpose of reducing and/or eliminating polluted runoff associated with agricultural operations to the waters of Tennessee. The program has regional and central office positions. Funds are awarded to local entities through contracts to accomplish program objectives, and projects must comply with program guidance.

### **Statutory and Constitutional Objectives**

The ARCF is authorized pursuant to TCA 67-4-409(l) and requires that the Department of Agriculture administer a grant fund for purposes of assisting landowners with measures that address point and nonpoint source water quality issues as well as nuisance problems.

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## **Mandated and Optional Services and Means of Providing Them**

Funds are provided through contracts with various groups such as Soil Conservation Districts, Resource Conservation and Development Districts, universities, and others to install Best Management Practices (BMPs) on farmland in Tennessee.

### **Performance Standards**

1. Improve water quality in Tennessee by reducing point and nonpoint source pollution originating from agricultural production areas.
2. Increase awareness of effective water quality practices.

### **Performance Measures**

- 1.a. Number of agricultural Best Management Practices (BMPs) installed within watersheds classified as impaired by point or nonpoint sources pursuant to (Section 303-d) of the Federal Clean Water Act.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
10	50	80

- b. Number of agricultural Best Management Practices (BMPs) installed within watersheds that could potentially be classified as impaired by point or nonpoint sources pursuant to (Section 303-d) of the Federal Clean Water Act.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
916	25	40

2. Number of water quality educational events sponsored.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
24	10	15

### **Obstacles to Meeting Objectives and Delivering Services**

The most significant obstacle to meeting objectives is obtaining the participation of local landowners and local partners to install Best Management Practices (BMPs) that will collectively reduce pollutant loading to a given water body.

### **Means of Overcoming Obstacles**

A variety of financial incentives are available to be offered to local landowners in order to obtain their cooperation. Also, providing information and guidance to local partners about program

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objectives should increase participation. Finally, new partnerships can be formed with other non-state funded organizations to provide additional financial resources for BMP implementation.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Recent involvement with the efforts in the Mississippi River watershed to reduce the nutrient loadings to the Gulf of Mexico in order to reduce the zone of hypoxia in the Gulf may result in increased federal funding for projects in Tennessee. Local sources of non-state revenue may be accessed through pollutant trading and Source Water Assessment activities, as local utilities realize the economic value of reducing pollution in the water body that serves as the drinking water supply or the receiving stream for treated wastewater effluent.

### **Means of Avoiding Unnecessary Costs and Expenditures**

All projects must comply with the provisions of their state contract, which requires them to follow established procedures for purchasing, sub-contracting, etc. Field staff check the reimbursement requests prior to submittal for accuracy and eligibility.

### **Future Challenges and Opportunities**

Future opportunities exist in the context of new partnerships with organizations that have the ability and access to funding to make improvements to farmland to reduce water quality impact. Challenges in effectively marketing the conservation products to the individual landowner, and making citizens aware of their collective contributions to water pollution problems will remain constant.

### **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

### **Data Verification**

Project data is verified by Regional Administrators and subsequently reviewed by program staff within the Water Resources section.

## **325.12 Tennessee Grain Indemnity Fund**

TCA 43-32-Part 2-Commodity Producer Indemnity Law provides the framework for administering the Tennessee Grain Indemnity Fund. No expenditures are made from this allotment code; interest earned is transferred to allotment code 325.05 (Regulatory Services) and is expended in that program. TCA 43-32-208 allows use of monies in the Fund to be used for administrative purposes. Producer assessments were discontinued when the fund balance exceeded \$3,000,000 per TCA 43-32-207; interest is earned on the balance.

## **Statutory and Constitutional Objectives**

TCA 43-32-2 states as its purpose: “to promote the state’s welfare by improving the economic stability of agriculture.”

## **Mandated and Optional Services and Means of Providing Them**

TCA 43-32-2 mandates various duties related to the collection and administration of the Fund.

## **Performance Standards**

1. Defray administrative costs.

## **Performance Measures**

1. Percent of administrative costs recovered.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
100%	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

Not Identified

## **Means of Overcoming Obstacles**

Not Identified

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

This program was funded from producer assessments.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Not Identified

## **Future Challenges and Opportunities**

Not Identified

## **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

## **Data Verification**

The Fiscal Director verifies STARS data and transfer funds to offset administrative expenditures in the Fund cost center.

## **325.14 Certified Cotton Growers' Organization Fund**

Allotment code 325.14 records fees collected from cotton producers and expenditures for boll weevil eradication efforts. Certified Cotton Growers' Organization Fund monies along with state appropriations in allotment code 325.01 are used to provide eradication services. There are no authorized positions in this code; service administration is provided by personnel in the Administration and Grants program.

## **Statutory and Constitutional Objectives**

TCA 43-6-401 through 43-6-431 declares the boll weevil a public nuisance and provides the framework for operation of a boll weevil eradication effort.

TCA 43-6-423 (e) creates the "certified cotton growers' organization fund."

## **Mandated and Optional Services and Means of Providing Them**

TCA 43-6-403 mandates the Commissioner of Agriculture to carry out programs to destroy and eliminate boll weevils in this state.

TCA 43-6-423 (a) authorizes a referendum among cotton growers upon the question of whether an assessment shall be levied upon cotton growers in the state to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs.

TCA 43-6-423 (e) mandates the Commissioner to promptly remit assessments collected to the certified cotton growers' organization

The Department of Agriculture works in conjunction with the Tennessee Boll Weevil Eradication Foundation, Inc. (TBWEF), a non-profit organization charged with the oversight of the program, to carry out the mandate of the cotton growers following a successful referendum. The TBWEF

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contracts with the Southeastern Boll Weevil Eradication Foundation, Inc. (SBWEF) to carry out program operations. The SBWEF is a non-profit organization formed by nine cotton-producing states in the southeastern United States for the purpose of eradicating the boll weevil in the respective states.

### **Performance Standards**

1. Maximize collection of assessments.

### **Performance Measures**

1. Percent of assessments collected.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
98.27%	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

A downward trend in cotton prices reduces producer net profit and the fixed assessments are magnified as a cost of operations.

### **Means of Overcoming Obstacles**

Continue to provide information to producers detailing the long-term benefits of the eradication program.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

State and federal elected officials from cotton growing states, in conjunction with cotton growers as represented by the National Cotton Council, have been successful in procuring a substantial increase in the federal appropriation for boll weevil eradication in recent years. For example, in 1999, due to a substantial expansion of the program, the federal appropriation as a percentage of cost dropped to approximately 5%. Today the federal appropriation funds approximately 30% of program costs. Since 1998, Tennessee cotton growers have received \$12.1 million from federal appropriations.

Tennessee cotton growers have also been beneficiaries of the contractual relationship between TBWEF and SBWEF. Cotton growers in the southeastern United States have contributed approximately \$2.6 million to support eradication efforts in Tennessee. This funding source speaks volumes concerning the importance of belt-wide eradication to those who have already made the investment and completed the program.



## **Means of Avoiding Unnecessary Costs and Expenditures**

Eradication area managers work closely with USDA's Agricultural Research Service (ARS) in developing cost saving measures. For instance, the rate of Malathion aerially applied by program operations has been reduced from 16 ounces per acre to 10 ounces per acre. Trapping densities have also been reduced in an effort to reach the optimal level that provides adequate monitoring capabilities with minimum personnel requirements.

## **Future Challenges and Opportunities**

Streamlining administrative functions when the containment phase of the program is reached will also present opportunities, along with challenges. Especially when nationwide eradication is achieved, revenue collection methods could evolve from the current per acre assessment to a per bale assessment collected by cotton ginner.

## **Performance Data Schedule**

Data to verify percentage of assessments collected will be available after December 31<sup>st</sup>.

## **Data Verification**

The program manager and members of the Tennessee Boll Weevil Eradication Foundation verify the information released on the Performance Data Schedule.

## **Market Development**

### **325.06 Market Development**

The Market Development Division (MDD) is responsible for promoting and developing Tennessee's agricultural industry. Division staff works closely with the Department of Economic and Community Development, Tourist Development, agricultural organizations and community officials across the state. In addition to services aimed at developing farm income, MDD also oversees activities related to fairs and exhibitions in the state, grants to 4-H and FFA youth programs, and the oversight of the Tennessee Agricultural Museum.

Program administrators, marketing specialists, museum staff, and clerical support are located at Ellington Center. Livestock Specialists (all involved in livestock grading and market news) are located throughout the state.

## **Statutory and Constitutional Objectives**

The enabling legislation of the Tennessee Department of Agriculture authorizes "the promotion  
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of agriculture” as one of the primary objectives of the Department (TCA 4-3-203 (1)). All services provided by Market Development program are designed to fall under the large umbrella of “promotion of agriculture.”

### **Mandated and Optional Services and Means of Providing Them**

TCA 43-1-111 mandates the Commissioner to employ at least one agricultural marketing specialist whose primary duty shall be to promote and enhance development of Tennessee’s equine industry.

TCA 43-1-112 mandates the Commissioner to employ at least one production and marketing specialist whose primary duty shall be to promote and enhance the statewide development of nursery stock production and sales.

TCA 43-1-501 creates and establishes the Tennessee agricultural museum. TCA 43-1-502 mandates the museum to be under the jurisdiction and administration of the Department of Agriculture.

TCA 43-20-102 mandates the Commissioner to appoint members of the Tennessee soybean promotion board who shall plan and conduct a program designed to promote the soybean industry in Tennessee.

TCA 43-21-111 appropriates \$160,000 annually to be disbursed for state aid to agricultural fairs. TCA 43-21-101 dictates the Commissioner to disburse all grants of state aid to agricultural fairs by appropriation. TCA 43-21-102 authorizes the Commissioner to pay state aid for the purpose of fostering and developing agriculture within the state of Tennessee.

TCA 43-30-104 (3)(b) mandates the Commissioner, in consultation with the viticulture advisory board, to submit an update of the state viticulture plan biennially to the general assembly.

TCA 43-33-104 (3)(b) mandates the Commissioner, in consultation with the aquaculture advisory board, to submit an update of the state aquaculture plan biennially to the general assembly.

TCA 55-4-267 authorizes the issuance of agriculture specialty license plates and allows the Commissioner to issue grants to be used to promote market development for agricultural products.

### **Performance Standards**

1. Improve sales results from Domestic Marketing sponsored trade events.
2. Maintain capital investment related to projects facilitated by MDD activities.
3. Increase the number of companies involved in international events through International Marketing.
4. Increase the number of cattle reported through improved collection methods.
5. Increase the number of agricultural exhibitors at fairs and exhibitions.
6. Increase participation in on-site and off-site Tennessee Agricultural Museum activities.

## Performance Measures

1. Sales generated by companies and farmers involved in sponsored trade events.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
\$4,500,000	\$3,500,000	\$4,000,000

2. Capital investment related to projects facilitated by MDD activities.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
\$10,000,000	\$10,000,000	\$10,000,000

3. Number of companies involved in international events.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
60	62	65

4. Number of cattle reported.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
700,000	725,000	730,000

5. Number of agricultural exhibitors at fairs and exhibitions.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
96,359	98,000	100,000

6. Number of visitors and participants in Tennessee Agricultural Museum activities.

Actual (FY 2002-03)	Estimate (FY 2003-04)	Target (FY 2004-05)
21,500	25,000	25,500

## Obstacles to Meeting Objectives and Delivering Services

Tennessee agriculture is in a period of great change and competition. Traditional crops such as tobacco are declining in importance. Commodities such as soybeans, cotton, and corn face stiff competition from the Midwest and overseas. Farmers are faced with difficult conditions. Activities to increase farm income must focus on business development, development of value-added farm opportunities, and active promotional efforts. Farmers and agribusiness must look at new products and new markets. Active efforts by MDD staff have proven beneficial to many farmers in developing alternatives and in establishing new enterprises.

## **Means of Overcoming Obstacles**

MDD works with other agencies, groups, and local governments in order to promote and develop agriculture. By creating teams of people, greater service is provided to the producer. Cost of promotions is shared between various groups.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

MDD has been successful in identifying and obtaining federal grants for use in industry development activities. Examples of these include Federal State Marketing Improvement Program (FSMIP) grants for developing manuals and case studies for agricultural business entrepreneurs; Specialty Crop grants that have helped develop fruit and vegetable, horticulture, and aquaculture operations; USDA Rural Development grants for the purpose of developing agritourism programs. Alternatives for investing federal revenue into industry development activities are also an important strategy.

The Agricultural Development Fund, with dollars obtained from the sale of agricultural license tags, provides funding assistance for MDD activities. Additionally, these funds are invested in educational, market development, and agricultural awareness activities throughout the industry. The fees collected from Market News and Livestock Grading services are dedicated to the continued provision of these services.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Division of State Audit recently completed a performance audit of the Department. An exit conference was held on July 9, 2003 to discuss possible finding and areas of concern. When the draft report is received, the Department will begin to address the items included in the audit.

In addition to external audits, supervisors within MDD continually seek ways to conduct promotional and development activities in the most cost-effective manner. There are internal controls to ensure that approvals are obtained prior to initiation of projects or expenditures. A supervisor approves activities such as promotional events, purchases, and travel in advance. Employees and their supervisors develop annual work plans tied to the budget. These plans are closely monitored.

## **Future Challenges and Opportunities**

Challenges include programs that will boost farm income while at the same time reflecting changes that are occurring throughout the state. As suburban areas continue to grow into traditional farm areas, problems are created. However, opportunities are also created for programs such as direct sales from the farmer to the consumer, agritourism, and other activities. It is important to monitor these changes and adapt programs to be able to continue to assist Tennessee farmers.

## **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

## **Data Verification**

Verification of performance measures is accomplished primarily by surveys conducted of clients of various programs. Divisional policy is for written results from participants of a particular event being submitted to MDD. This written documentation provides the basis for measurement of performance.

## **Regulatory Services**

### **325.05 Regulatory Services**

The Division of Regulatory Services enforces statutes that pertain to human and animal health safety, consumer protection, truth in labeling and free movement of plants and animals. The Division has nine Sections:

Food & Dairy  
Weights & Measures  
Plant Certification  
Ag Inputs & Pesticides  
Laboratory Services  
Petroleum  
Animal Health  
Animal Diagnostic Laboratory  
Administration.

The Division of Regulatory Services was established in 1997 upon the consolidation of all regulatory programs administered by the Tennessee Department of Agriculture. The Division has 216 full-time positions and three seasonal positions: 123 field staff, 23 Administrative, 31 Clerical and 42 Professional level employees which include Chemists, Microbiologists, Veterinary Diagnosticians, Staff Veterinarians, Auditors, a Plant Pathologist and an Entomologist. The main office for the Division is located at Ellington Agricultural Center, Nashville, TN. There are four other regional offices across the state. Approximately 55% of the staff is located outside of the Nashville office, situated across Tennessee performing field inspections.

The Division has the responsibility to enforce regulations relative to agricultural inputs as well as agricultural outputs. Products regulated by the Division include food, dairy, pesticides, feed, seed, fertilizer, agricultural lime, motor fuels, kerosene, and plant material. The products are inspected and sampled for adulteration, truth in labeling and minimum standards from across the state. The Division also performs animal health inspections and provides diagnostic services for livestock producers, veterinarians and pet owners. Worker Protection Standards are monitored in this

Division, and the Youth Access to Tobacco Act is enforced in a matter to reasonably reduce the access of tobacco to individuals under the age of 18. Commerce is regulated through both plant and animal certification verification. Accuracy of net contents of products is monitored as well as the weighing and measuring devices utilized for sales transactions.

## **Statutory and Constitutional Objectives**

TCA 43-1-701 creates an Agricultural Regulatory Fund where fees for licenses, registration of products and costs for procedures are deposited and expenses for those services are debited.

TCA 44-19-101 creates a committee comprised of dairy farmers who administer the expenditures of assessments deducted from the payment for milk. The funds are specified for the promotion to the consumption of dairy products.

TCA 43-8-101 Tennessee Insecticide, Fungicide, and Rodenticide Act requires the registration of pesticide products noted as “restricted use” to be registered with the State.

TCA 43-8-201 stipulates the requirement for individuals selling restricted use pesticide products to be licensed.

TCA 43-8-301 provides for licensing and regulation of the aerial application of pesticides.

TCA 43-10-101 Tennessee Seed Law requires the regulation of agricultural seed and seed dealers. The objective is for only clean, viable agricultural and vegetable seed that is accurately represented by the product labeling to be sold in Tennessee.

TCA 43-11-101 Tennessee Commercial Fertilizer Law requires the regulation of the sale and distribution of fertilizer products. The objective is for plant food products placed into commerce to be safe and effective, accurately represented by product labeling.

TCA 43-11-401 Tennessee Liming Materials Act requires the regulation of agricultural lime manufacturers. The objective is to provide effective soil neutralizing materials sold that meet minimum standards and product labeling accurately.

TCA 43-13-101 Anhydrous Ammonia Storage and Equipment Law of Tennessee requires the regulation of anhydrous ammonia dealers. The objective is to provide oversight for the safe storage and application of this gaseous fertilizer material.

TCA 43-32-101 Tennessee Commodity Dealer and Warehouse Law requires the regulation of commodity dealers who make purchases from producers. The objective is to evaluate the financial condition of commodity dealers / warehouses in order to protect the interest of the commodity producer selling product to the dealer/warehouseman.

TCA 43-32-201 Tennessee Commodity Producer Indemnity Law provides an assessment be levied upon commodity producer by the first purchaser of the product. The assessment is forwarded to the Commissioner to be deposited in an account from which producers who experience a loss from the failure of a licensed commodity dealer or warehouseman to make payment for such commodity can file a claim against the fund. Statute requires that assessments be halted when the fund balance exceeds \$3,000,000. The objective is to reimburse commodity

producers for their grain when the purchasers fail to make payment.

TCA 44-6-101 Tennessee Commercial Feed Law requires the regulation of commercial feed manufacturers. The objective is to allow into commerce only safe and wholesome feed for food and companion animals that are accurately represented by product label to provide nutritive, non-adulterated feed entering the food chain.

TCA 62-21-101 Tennessee Application of Pesticides Act requires the regulation of pest control operators and set requirements for such business. The objective is to allow only respectable businesses that have demonstrated adequate knowledge in the safe use and handling of pesticides to operate in this state. The code also requires the regulation of pesticide Worker Protection Standard stated on the product label. The objective is to reduce or mitigate occupational exposures to agricultural employees who apply pesticides or are exposed to pesticide residues.

The Code of Federal Regulations (CFR), Part 171, stipulates requirements for the certification of restricted use pesticide applicators and the provisions the state must adhere to in implementing such certification program.

TCA 47-18-1301 requires the Commissioner to implement and administer an inspection and testing program to enforce compliance with quality standards established for kerosene and motor fuels conveyed in Tennessee. The objective is for only quality, safe motor fuels and kerosene be sold in Tennessee.

TCA 47-26-101 outlines the table for uniform weights and measures in Tennessee. The objective is to provide for uniform amounts of commodities offered for sale in Tennessee.

TCA 47-26-701 requires the Commissioner to conduct inspections and test on commercial moisture metering devices annually. The objective is to allow for accurate transactions involving grain are conducted when moisture content influences the value.

TCA 47-26-801 requires the Commissioner to issue permits authorizing individuals to perform the duties of a certified public weigher. The objective is for weighers of natural resources to be registered, bonded, and qualified to perform the required duties.

TCA 47-26-901 requires the Commissioner to conduct investigations, inspect, and test weighing and measuring devices, inspect and test packaged commodities, and establish standards for commercial weights and measures. The objective is to provide equity in the marketplace.

TCA 47-26-1001 requires the Commissioner to issue permits authorizing individuals to perform the duties of a public weighmaster. The objective is for qualified weighers of specific agricultural commodities and those that weigh for a fee be registered.

TCA 47-26-1101 requires the Commissioner to issue permits authorizing individuals and companies to engage in the business of installation and calibration of commercial weighing and measuring devices. The objective is to register servicepersons and service agencies qualified to perform the required duties.

TCA 55-21-201 requires the Commissioner to ensure that specific establishments that sell gasoline display a standardized disabled driver placard. The objective is to make disabled drivers aware of refueling services offered at these establishments.

TCA 43-6-101 Tennessee Plant Pest Act provides for the regulation of plants in a manner to prevent the introduction of insect pests, pest plants, or plant diseases into the state, and to eradicate or suppress and control insect pests, pest plants, or plant diseases once they occur.

TCA 43-6-201 Eradication of Johnson Grass provides for county-by-county referendum of 2/3 vote by the county legislative body to adopt the requirements for the eradication of Johnson Grass.

TCA 43-6-301 Pest Compact allows enrollment into a multi-state compact in order to provide insurance in case of a costly plant pest emergency.

TCA 44-15-201 stipulates that the Commissioner appoint a state apiarist in order to develop, implement, and administer the apiary program in a manner that will provide an adequate number of pollinators in the state.

TCA 44-2-101 Prevention and Treatment of Diseases grants the general supervision of all animals within or that may be in transit through the state to the Commissioner and state veterinarian. The objective is to protect the health of animals in Tennessee.

TCA 44-2-401 Tennessee Garbage Feeding Law prohibits the feeding of garbage to swine. The objective is to control the infection and spread of disease in swine.

TCA 44-7-201 Registration of Cattle Brands requires the regulation of the use of brands used to identify livestock. The objective is to help facilitate the tracing and identification of livestock and afford protection against theft and unlawful dealing of livestock.

TCA 44-10-201 Tennessee Livestock Dealer Act requires the regulation of persons dealing in livestock and the requirement to maintain and provide stipulated records. The objective is to provide tools when a necessity exists for the tracing of animals in the event of a disease outbreak.

TCA 44-11-101 Livestock Sales requires the regulation of community livestock sales. The objective is to provide financial protection for livestock producers and also to aid in the detection and inspection of diseased animals.

TCA 44-16-101 Baby Chicks requires the regulation of poultry hatcheries. The objective is to promote and encourage a health poultry industry in Tennessee.

TCA 44-16-201 Custom Hatching or Producing for Sale requires the regulation of the sale of baby chicks. The objective is to heighten proper sanitary measures in order to suppress and prevent the spread of contagious and infectious diseases of baby chicks.

TCA 44-17-101 Dog and Cat Dealers requires the licensing and inspection of dog and cat dealers. The objective is to improve the humane treatment of dogs and cats in commerce and those used in research facilities.

TCA 44-17-301 Dog and Cat Humane Death Act provides for oversight in the use of appropriate euthanasia methods for dogs and cats in animal shelters, dog pounds, animal control agencies, and humane shelters. The objective is for the euthanasia of dogs and cats in shelters and pounds be performed in a humane manner.

TCA 44-17-501 Tennessee Spay/Neuter Law requires that dogs and cats adopted from animal

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shelters are spayed/neutered by a licensed veterinarian.

TCA 55-4-209 Animal Friendly License Plates – Charges the Commissioner with administering the issuance of grants provided from the funds collected from the sale of specialty license plates for the specific purpose of spay and neutering of dogs and cats.

TCA 39-17-1501 requires the Commissioner to enforce the provisions of the Youth Access to Tobacco Act in a manner that will reasonably reduce the access of persons under the age of eighteen years to tobacco products.

TCA 53-1-101 Tennessee Food, Drug and Cosmetic Act allows adoption of the Federal Good Manufacturing Practices from the Code of Federal Regulations. The statute authorizes inspection and sampling within all food manufacturers and food warehouses in the state. The objective is to provide a safe and wholesome food supply.

TCA 53-3-101 Dairy Law of Tennessee requires the regulation of the dairy industry – farm, transportation and processing. Requires adoption of the U.S. Pasteurized Milk Ordinance as regulation in inspecting and sampling of all dairy farms, milk plants, milk transport drivers and their vessels. The objective is to provide safe and wholesome milk and dairy supply and that milk and dairy products produced and processed in this state and inter interstate commerce.

TCA 53-3-201 Unfair Trade Practices prohibits milk processors, distributors and retailers from advertising, offering for sale or selling within the State of Tennessee, at wholesale or retail, any milk product for less than the cost to the processor and or distributor and in addition, to provide to the Commissioner a complete price list of all charges associated with milk products sold by processors or distributors. The objective is to prevent milk processors and distributors from destroying competition or creating a monopoly.

TCA 53-7-101 requires that horsemeat that is offered or exposed for sale is denatured with at least 2% charcoal or a similar inert ingredient, labeled as such and sold only in package form. The objective is to provide a safe, properly labeled and packaged product.

TCA 53-7-201 Meat and Poultry Inspection Act provides for inspection/regulation of meat and poultry processors. The objective is to provide safe, wholesome and properly labeled and packaged meat and poultry products to the consumer.

TCA 53-7-301 Tennessee Biological Residue Act provides that the Commissioner shall promulgate regulations setting forth tolerances for biological residues in animals or animal products which may be hazardous to human health and to place in detention or quarantine such animal or animal product until compliance with established tolerances or properly disposed of. The objective is to prohibit biological residues that may be hazardous to human health from entering the human food supply.

TCA 53-8-101 Establishments Selling Food provides for the inspection/regulation of all facilities used for the production for sale, manufacture for sale, storage, sale, distribution or transportation of food. The objective is to provide a safe and wholesome food supply to the consumer.

TCA 53-8-201 Tennessee Retail Food Store Inspection Act provides for biannual inspection of all retail food stores and the permitting of such facilities. The objective is for all retail food establishments meet minimum sanitary standards thus reducing the adulteration of food products.

TCA 53-9-101 Refrigerated Locker Plants provides for the licensing and inspection/regulation of all refrigerated locker plants which freeze or contain frozen food for human consumption. The objective is to provide safe and wholesome frozen food for human consumption.

TCA 53-10-101 Legend Drugs provides authority to require any item which federal law prohibits dispensing without a prescription from a licensed doctor, dentist, optometrist or veterinarian to be obtained by the consumer. The objective is to prevent prescription strength drugs from illegally entering the marketplace thereby potentially compromising the public's health.

TCA 53-10-201 Substitution of Generic Drugs provides authority to allow for pharmacists to substitute less costly generic drugs for higher priced brand or trade name drugs. The objective is to enable pharmacists to substitute less costly generic drugs for higher priced brand or trade name drugs for the consumer.

TCA 53-10-301 Controlled Substance Prevention Act provides authority to require any business selling controlled substances to submit to the board of pharmacy notification of any shipments of such substances including the same information required by the federal drug enforcement agency. The objective is to prevent controlled substance drugs from illegally entering the marketplace thereby potentially compromising the public's health.

TCA 53-12-101 Vending Machines and Commissaries provides authority for inspection/regulation of any commissary, catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored, and directly from which vending machines are serviced and inspection/regulation of vending machines. The objective is to provide wholesome and safe foods obtained from vending machines and commissaries.

Title 21 CFR Part 110 – Current Good Manufacturing Practice in Manufacturing, Packing or Holding Human Food specifies conditions in which food may be manufactured and stored. The objective is to provide a safe and wholesome food supply.

## **Mandated and Optional Services and Means of Providing Them**

Each mandated and optional regulatory service in the Regulatory Services program is detailed in a unique state or federal statute. These statutes direct responsibilities for the registration, licensing, sampling, inspection, or analysis of items pertaining to human and animal health safety, consumer protection, truth in labeling and free movement of plants and animals. These services are referenced in the Statutory and Constitutional Objectives section noted above.

## **Performance Standards**

1. Insure routine food establishment inspections meet audit compliance standards
2. Decrease the number of retail food stores scoring below target on routine inspections.
3. Insure all producers pass state/federal milk-rating audits.
4. Reduce the number of retail food stores issued civil penalties.
5. Insure weighing and measuring devices weigh accurately.
6. Insure commodity lots inspected are accurately weighed.
7. Insure commodities inspected are accurately priced.
8. Insure kerosene and motor fuel samples collected and tested meet standards.

9. Insure all livestock disease programs meet USDA standards.
10. Insure agricultural inputs are labeled properly.
11. Complete pesticide complaint investigations on target.
12. Increase Worker Protection Standard Inspection compliance.
13. Decrease rejection of plant materials exported from Tennessee.
14. Prevent uninspected plant materials and other regulated articles from import into Tennessee.
15. Complete mandated inspections.
16. Complete targeted inspections.

## Performance Measures

1. Consistency of food inspections indicated by comparison of audit inspections meeting goal.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	60%	75%

2. Number of retail food stores receiving a sanitation inspection score of less than 70 on routine inspections.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
443	400	375

3. Compliance audits of Tennessee milk supply determined by state and federal auditors:  
Number of units not passing audits.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

4. The number of retail food stores issued a civil penalty.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
443	425	400

5. Compliance of weighing and measuring devices – percent passing accuracy tests.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96.9%	97%	97%

6. Compliance percentage of commodity lots inspected for correct net contents.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
90.1%	89%	90%

7. Compliance percentage of commodities verified for accurate pricing.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
96.2%	96.5%	96.5%

8. Compliance percentage of motor fuels and kerosene samples collected and tested.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
97.8%	96.5%	97%

9. Number of animal disease programs that do not meet the minimum requirements of disease status recognized by USDA.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	0	0

10. Percentage of non-violative agricultural input samples.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
95%	95%	96%

11. Number of months to complete pesticide related consumer complaints.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	5	3

12. Percentage compliance of Worker Protection Standard Inspections.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
77%	85%	87.5%

13. Number of plant material lots rejected by other states/countries originating in Tennessee.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
24	20	12

14. Number of plant material lots and regulated article lots rejected by Tennessee originating from other states/countries.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3	12	20

15. Percentage of mandated inspections performed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
90.17	96%	100%

16. Percentage of targeted inspections performed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	95%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

The public has more access to more information through the internet and through the media which has caused more inquiries from the public, thus taking more resources to respond to the questions and concerns either via internet response, written responses or phone conversations. Also, staff veterinarians located in rural Tennessee are receiving more requests for services relative to procedures necessary to meet requirements for movement of livestock. Producers are indicating that rural practitioners are refusing to perform such procedures; therefore, staff veterinarians are often requested to provide such services.

Some mandated responsibilities with low risk factors take valuable time that could be used in areas with higher risks to the public.

Utilization of field screening tools in determining possible violative samples may result in an increase in violative samples obtained.

Industries regulated may place a higher priority on non-regulated areas such as profit margins leading to a failure to emphasize the necessity to comply with requirements.

## **Means of Overcoming Obstacles**

Implement fees for more services provided.

Conduct more risk assessments and forward recommendations to alter mandated low risk responsibilities for legislative consideration.

Screening tools will improve the program, but ultimately will result in an improvement in the quality of those samples.

In certain areas the Division could place more stringent enforcement actions on offenders when authorized to do so and the Division could place more emphasis on outreach to the industries served in making them aware of the problems regulators are encountering.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Division has developed several partnerships in order to reduce cost or to generate revenue for services provided by the state and hold joint responsibilities. Federal grants and Cooperative Agreements are pursued and obtained. The Division is monitoring the Department's role in Homeland Security/Agriterrorism and will pursue funding sources as they develop. Recent legislation has increased and implemented new fees for services provided.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Division's largest expense is personnel. The Division requires all employees working in the field to closely document their activities from the beginning to the end of the day. Supervisors and Administrators have the responsibility to review the daily documentation of all field

employees to account for their work and how efficiently they conduct their work. An internal auditor randomly reviews this information also and reports any questionable activities and/or times.

The Division has performed extensive cross-training in order to more efficiently perform the duties assigned.

Statistical sampling of establishments for inspection and sampling has been conducted in areas where feasible in order to increase efficiency while maintaining effectiveness.

Laboratory samples sometimes have longer turn-around time due to the effort of holding specimens and samples for bulk testing. Bulk testing offers the advantage of maximizing the use of supplies and reagents and minimizes waste, yet sometimes compromises the laboratory's performance measures by delaying the reporting of results.

A four-day work week has been instituted for field employees in an effort to minimize mileage cost by extending the work day and eliminating one day a week of commute mileage and time.

The Division has a courier van that travels across the state to collect and transport samples and documents from field employees.

The Division of State Audit recently completed a performance audit of the Department. An exit conference was held on July 9, 2003 to discuss possible finding and areas of concern. When the draft report is received, the Division will begin to address the items included in the audit.

## **Future Challenges and Opportunities**

The threat of bioterrorism, the potential for accidental introduction of a foreign animal disease into this country, the possibility of contaminating the nations food supply, or introducing plant pests into this country, has required greater time commitments from staff investigating potential occurrences while also educating the public. Every aspect of the Division of Regulatory Services has a possibility of being threatened via bioterrorism. While this is an undesirable situation, it has provided the only source of additional revenue to the Division in order to assist in fighting terrorism. Some of the equipment and supplies purchased via federal homeland security dollars can also be used in the Division's routine activities.

## **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

## **Data Verification**

The Division's internal auditor will perform audits and put in to place checks and balances where they do not exist at this time.

## **325.16 Agricultural Regulatory Fund**

TCA 43-1-701 established the Agricultural Regulatory Fund and specifies the revenue sources to be deposited into the Fund. No expenditures are made from this allotment code; it provides intra-departmental revenue to fund the services detailed in the Regulatory Services program (325.05) and in the Administration and Grants program (325.01).

### **Statutory and Constitutional Objectives**

TCA 43-1-702 (a) – The fund shall be available to the Department of Agriculture to help defray the costs of administering regulatory programs. The moneys shall be used for improved performance in permitting, monitoring, investigation, enforcement, and administration of the Department's functions under each statute listed in TCA 43-1-701, including the payment of salaries and benefits to employees administering the regulatory programs under each statute listed in TCA 43-1-701.

### **Mandated and Optional Services and Means of Providing Them**

TCA 43-1-702 mandates the agricultural regulatory fund service.

### **Performance Standards**

1. Maximize work plan expenditures funded with agricultural regulatory fund dollars.

### **Performance Measures**

1. Percentage of work plan estimated expenditures transferred at year-end.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
100%	96%	98%

### **Obstacles to Meeting Objectives and Delivering Services**

Personnel related driven expenditures (salaries, benefits, & travel) depend on positions being filled.

### **Means of Overcoming Obstacles**

Administrators must anticipate pending vacancies and initiate personnel actions timely in order to insure positions are filled.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Administrators in service areas covered by TCA 43-1-701 review data bases containing revenue remitting entities and reconcile internal summaries and STARS reports to insure correct amount for licenses, permits, fees, etc are collected. Also, inspectors in the various services are trained to be familiar with the databases and recognize an entity they encounter that is not in the records.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Not Identified

## **Future Challenges and Opportunities**

The gap between service area costs and fees collected will increase with higher fixed costs (salary policy, longevity, etc.); the Division has to anticipate funding needs and propose funding measures that enable service levels to continue at acceptable levels.

## **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

## **Data Verification**

The data supporting eligible expenses and funding transfers is verified by final STARS reports.

## **Forestry**

### **325.10 Forestry**

The Division of Forestry program is organized around eight core services. Forestry is responsible for preventing, detecting and controlling forest fires, detecting and controlling forest pests, providing land management assistance to Tennessee landowners, producing genetically improved tree seed and seedlings for reforestation, managing a State Forest system, collecting and reporting forest resource data, introducing emerging and new technologies, conducting an Urban Forestry program and providing information which encourages and promotes forest protection, management, reforestation, forest products marketing and utilization.

Positions include professional foresters, forestry technicians, forestry aides, laborers, and clerical and support. The main office is located at Ellington Agricultural Center, Nashville, TN. There are six district offices, 31 area offices, two seedling nurseries, and numerous work centers and fire towers. Forty-two of the work centers have employee residences.



## **Statutory and Constitutional Objectives**

TCA 11-4-101 et seq. establishes a forestry organization that is responsible for the development and administration of those programs and services that ensure effective protection, management, and reforestation of Tennessee's forests

## **Mandated and Optional Services and Means of Providing Them**

Certain duties and responsibilities are assignable to the State Forester pursuant to TCA 11-4-301(d) while other activities and programs are authorized including the following:

Forest Resource Protection takes action to effectively prevent and suppress wildland fires, (mandated per TCA 11-4-301(d)(5) and (16); and optionally per TCA 11-4-406—411).

Forest Resource Management, cooperates with private landowners in planning for protection, management and replacement of forests (mandated per TCA 11-4-301(d)(8) and optionally per TCA 11-4-701(2), (4), (5) and (6) and TCA 11-4-703.

Forest Data and Technology, compiles statistics of forest conditions, resources and management programs (mandated per TCA 11-4-301(d)(9), and (17). Collects and distributes data relative to forest problems and conditions (mandated per TCA 11-4-301(d)(14). Cooperation with other agencies such as UT Forest, Fisheries & Wildlife, US Forest Service and USDA, NRCS is maintained.

State Forest Management protects and manages lands designated as state forests (mandated per TCA 11-4-301(d)(10) and TCA 11-4-802--803 and optionally per TCA 11-4-403--404 and TCA 11-4-801, 804, 805 and 806). Forestry manages 15 tracts of forestland totaling 160,837 acres. Management for multiple use objectives is mandated and includes sustainability and long-term health, demonstration of forest management techniques, recreation, protection of cemeteries and other significant cultural resources.

Forest Businesses cooperates with the public and private forestry interests, government entities and private organizations to promote the efficient marketing and utilization of the state's forest resource. (Mandated per TCA 11-4-301(d)(12) and optionally per TCA 11-4-701(1) and (3)(A)). The Division compiles and distributes information regarding forest industry activity as well as providing certain levels of technical assistance on such matters.

Reforestation, acquires, develops, and administers forest tree seedling nursery sites and facilities as necessary to assure the long-term production of seedlings in sufficient quantity and quality for purposes of reforestation, and shall maintain a tree improvement program to assure the continued development and production of genetically superior tree seed. (Mandated per TCA 11-4-601 and 11-4-301(d)(15) and optionally per TCA 11-4-602—604. The Division manages two forest tree seedling nurseries including associated seed production and tree improvement (genetics) services associated in part with the State Forest system.

Urban Forest Resource Management, makes grants using federal and/or state funds to qualifying cities, towns, municipalities, and other communities for purposes of establishing cooperative urban forestry programs. (Optional per TCA 11-4-701(3)(B) and (9) as well as 11-4-702.) The Division provides technical assistance and grants administration services to communities

interested in participating in urban forestry programs.

Information and Education, promotes and conducts educational activities in the interest of forest conservation (mandated per TCA 11-4-301(7) and optionally per TCA 11-4-701(8)). Forestry conducts many educational events that range from conducting forest landowner conferences and touring groups through demonstration areas on State Forests, to holding a weeklong Forestry Camp for high school students. Forestry maintains a substantial web site with forest data in information. Forestry uses many other outlets to publicize forest information.

## Performance Standards

1. Reduce annual losses of forest resources and other assets due to wildfire, forest pests, and cultural changes.
2. Increase forested acreage under active forest management.
3. Current and reliable forest resource data, reported in a timely fashion, and readily available to the public.
4. Increase the number of state forest compartment plans updated and integrated into GIS.
5. Increase assistance provided to forest-based businesses, industries, partnerships, and sole proprietorships.
6. Increase acres reforested using seedlings grown by Division nurseries.
7. Increase urban technical assistance provided to cities, towns, and communities.

## Performance Measures

Reduced annual losses of forest resources and other assets due to wildfire, forest pests, and cultural changes is compared to values saved. Tennessee's five-year average is \$56 saved in timber and improvements for every \$1 dollar lost in wildfire (\$56:1). A recent historical high, in 1997 was \$138:1. The recent historical low occurred in 1998 at \$38:1.

Current data does not include the value lost from forest pest and cultural changes. These will be added once data collection measures are introduced. Values lost to cultural changes include such values as the timber value lost when forestlands are developed. These also will be added to the measure following training and development of procedures to capture that information.

During 2002 the Division of Forestry saved property and forest values of \$36.8 million and lost property and forest values of \$736,000. Thereby yielding a ration of \$50:1. \$60:1 has been selected as a target because it is a reasonable and achievable goal given current structure and operational procedures.

1. The ratio of property value saved to property value lost due to wildland fires.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$50 saved per \$1 lost	\$55 saved per \$1 lost	\$60 saved per \$1 lost

2. Number of landowners provided forest management technical assistance.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
10,037	10,000	10,000

3. Forest inventory plot measurements completed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
610	925	925

4. Percent of state forest compartment plans updated and integrated into a geographic information system.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
3.75%	5.00%	6.25%

5. Number of new (non-repeat) forestry related businesses provided technical assistance.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
82	90	95

6. Number of acres re-forested using seedlings grown by Division nurseries.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
4,700	9,089	8,000

7. Number of cities, towns, and communities provided urban forestry technical assistance.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
29	42	45

### **Obstacles to Meeting Objectives and Delivering Services**

The expanding numbers of homes built in rural areas with a history of high forest fire occurrence is a major obstacle. With increasing numbers of homes built, values at risk increase. Increased values at risk in association with the loss of fire management personnel to other organizations, tax resources more quickly than at any other time in the Division's history. The absence of an ongoing replacement program for fire suppression equipment has lead to an aging and unreliable fleet.

The Division's radio communications system, 15 years old with many of the replacement parts unavailable, is another obstacle that limits effectiveness.

Antiquated data gathering and reporting systems limit time directly allocated to priority projects.

### **Means of Overcoming Obstacles**

The Forestry Division is currently expanding its work with communities to reduce the risks from fire by increasing education and promotion of the Fire Wise program, increasing efforts to conduct fire hazard mitigation projects and by developing data to support expanded appropriations for aerial suppression. Much of this work is supported by federal grants and in association with the U.S. Forest Service.

Forestry is in the process of exploring strategies to replace and upgrade equipment as well as researching new opportunities for funding this equipment replacement.

To overcome the antiquated reporting systems, the Division is currently utilizing federal grant money to develop a reporting system and have plans to increase training and technology use.

In addition to the means of overcoming obstacles listed, the Division is in the process of reorganizing the department structure to help facilitate increased effectiveness.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Division maintains close contact with the US Forest Service, the main source of federal funds. Service area managers interact with their federal counterparts to become aware of any changing program changes or matching requirements.

In response to Forestry Commission requests, the Division is exploring means to increase the revenue generated from state forest timber sales and nursery seedling sales.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Division of State Audit recently completed a performance audit of the Department. An exit conference was held on July 9, 2003 to discuss possible findings and areas of concern. When the draft report is received, the Division will begin to address the items included in the audit.

A committee, with representation from the Commissioner's Office and the Fiscal Office, has been formed to assess vehicle, equipment and facilities utilization.

### **Future Challenges and Opportunities**

The Forestry Division, as mentioned above, faces the challenge of an increasingly urbanizing environment with aging fire suppression equipment and decreasing numbers of employees. Reports suggest that these increasing pressures will not subside and the demand for recreational opportunities on public lands managed will increase.

Increased risks of detrimental insects and diseases like the Gypsy Moth will challenge the ability to protect and manage Tennessee's forests.

### **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

### **Data Verification**

Plans are underway to implement an automated fire reporting system.

### **325.11 Forestry Maintenance**

This allotment code provides accounting for funds used to maintain Forestry Division facilities and communications equipment. This program supports services provided by the Forestry Operations program (325.10).

#### **Statutory and Constitutional Objectives**

Not Identified

#### **Mandated and Optional Services and Means of Providing Them**

The forestry maintenance service is fund accounting for the Forestry Division.

#### **Performance Standards**

1. Utilize available funds for needed maintenance.

#### **Performance Measures**

1. Percentage of available funding used for facilities and communications maintenance.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
76.22%	100%	100%

#### **Obstacles to Meeting Objectives and Delivering Services**

Forestry does not have an up to date needs assessment for forestry facilities.

#### **Means of Overcoming Obstacles**

A committee, with representation from the Commissioner's Office and the Fiscal Office, has been formed to assess forestry facility needs and utilization. The committee working with the Facilities Needs Assessment Model designed by F&A Capital Projects will formulate a plan to address maintenance requirements.

#### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

This program is funded entirely with state dollars.

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### **Means of Avoiding Unnecessary Costs and Expenditures**

The Division of State Audit recently completed a performance audit of the Department. An exit conference was held on July 9, 2003 to discuss possible findings and areas of concern. When the draft report is received, the Division will begin to address the items included in the audit.

### **Future Challenges and Opportunities**

Once plans are developed that outline facility needs and priorities, the Division must identify a mechanism to fund and facilitate the work.

### **Performance Data Schedule**

Data for standards will be available on the 30<sup>th</sup> of the month after the quarter's end.

### **Data Verification**

The State of Tennessee Statewide Accounting and Reporting System (STARS) records all expenditures and obligations.

# **Department of Tourist Development**

## **General Agency Information**

The Department of Tourist Development contains the following programs:

1. Marketing and Administration
2. Welcome Centers

The Department has staff in offices in Nashville, Jackson, Knoxville, and 13 welcome centers at all major interstates entering the state.

## **Administration and Marketing**

### **326.01 Administration and Marketing**

Marketing and Administration is responsible for developing and implementing the marketing services necessary to accomplish the Department's programs and provide for the administration of the Department. It has a main office in Nashville and a regional office in Jackson and Knoxville.

## **Statutory and Constitutional Objectives**

TCA 4-3-2204 creates the Department of Tourist Development and defines areas of responsibility such as promoting within Tennessee and other states the attractions of Tennessee, distributing Tennessee information, promoting new investment in the tourist industry, and providing services to the tourism industry.

TCA 4-3-2006 further defines the power of the Commissioner to compile literature for distribution, to plan and conduct publicity and information programs to attract visitors, provide educational services, contract for advertising and other services, establish cooperative agreements with public and private groups as deemed advantageous, promote the economic advantages of the State, gather information from other branches of the state government that will provide information for advertising purposes, and other services related to the promotion and marketing of tourism.

TCA 4-3-2007 defines the Department's responsibility to assist financially with the development of regional plans for tourist promotion and for the coordination of that assistance with the nine tourist development regions.

## **Mandated and Optional Services and Means of Providing Them**

In order to implement the mandated services and provide optional services necessary to meet program objectives, the Department is organized into several functional areas that specialize in different marketing and administration activities. The areas of activity include advertising and promotions, public relations and communications, sales, support services, and administration.

The TCA 4-3-2204 and TCA 4-3-2006 mandated services of promoting within Tennessee and in other states the attractions of Tennessee, promoting new investment in the tourist industry, providing comprehensive services to existing tourist enterprises, contracting for advertising services, and promoting the economic advantages of the State are supported by the Department's advertising campaign and promotional services. The activities required to support these services include the design and production of an advertising campaign to encourage visitation to the State and increase visitor spending in Tennessee; the placement of print, broadcast, and other media that maximizes the exposure of the campaign based on available resources; the development of cooperative advertising activities that directly support associations and organizations in the tourism industry; the development of special promotional activities to support specific tourism events; and the development of business partnerships to maximize available resources. An additional activity and new initiative to study and develop a Branding of the State is being conducted to determine how Tennessee should best position its promotional message to increase travel within the state and increase visitation from other states.

The TCA 4-3-2204 and TCA 4-3-2006, mandated services of distributing Tennessee information publications including the collection, compilation and distribution of literature as to the facilities, advantages and attractions of the State, the historic, recreational and scenic points and places of interest within the State and the transportation and highway facilities of the State are accomplished by the development of promotional literature like the Tennessee Vacation Guide, Annual Events Brochure, and Highway Maps for distribution to consumers.

The mandated service required by TCA 4-3-2206 to plan and conduct a program of information and publicity designed to attract tourists, visitors and other interested persons from within Tennessee and outside the State and to encourage and coordinate the efforts of other public and private organizations or groups to publicize the facilities and attractions of the State is accomplished by writing articles about travel opportunities in Tennessee for national and international distribution to the media, responding to media requests for information about Tennessee, and by planning and hosting travel writer trips to Tennessee to promote stories about Tennessee in their publications in partnership with the travel industry.

The mandated service to carry on such educational services as necessary to familiarize the people of the State with the scenic, historical, industrial, recreational and agricultural advantages or needs of the State as required by TCA 4-3-2206, is accomplished by developing public relations campaigns to support the overall objectives of the marketing program, and by hosting workshops and conferences to educate the travel and tourism industry and interested parties concerning Department services and programs.

The mandated services of TCA 4-3-2204 and TCA 4-3-2006 to provide other services related to the promotion and marketing of tourism is accomplished by sales activities promoting Tennessee's travel and vacation assets to travel and tour operators, AAA and travel agents, tour bus operators, and the international market. The sales activities include representing and coordinating the marketing needs of the travel industry at state, regional, national and international travel and tourism events and conferences. Other sales activities include

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coordinating with the tourism industry to plan and participate in joint promotional marketing projects such as sales missions within Tennessee and outside the State requiring extensive knowledge of the Tennessee travel product. Sales and promotion activities in each of the major regions of the state are conducted by marketing managers that work directly with small and large communities, attractions, heritage groups, sports groups, agriculture interests and other groups to help promote, develop, and communicate their full tourism potential.

The support services activities provided by the Department are necessary to support program objectives. Some of the activities include telemarketing services to respond to caller requests and e-mail requests for vacation guides and travel information twenty-four hours a day, fulfillment services necessary to respond to the requests for information, and the development and maintenance of a website that provides visitor information and promotes Tennessee as a travel destination. The Department recognizes that the Internet has become a primary source of information for consumer vacation planning. A new initiative and marketing activity to improve and enhance the tourism website as a major marketing tool to better sell Tennessee as a travel destination is being planned. In addition, the Department is evaluating the use of other technology tools like e-mail to supplement the marketing message. Other activities provided by support services include the development of research necessary to measure the effectiveness of various programs, travel industry trends, economic impact information, and other necessary marketing research. The administrative activities of the Department include the Commissioner and administrative staff necessary to support the financial, human resource, operating needs, and management of the Department. Another administrative activity is to administer the TCA 4-3-2007, mandated service to provide financial assistance to the nine tourist development regional organizations.

## Performance Standards

1. Increase travel generated sales.
2. Increase requests for Tennessee travel information.

## Performance Measures

1. Annual gross sales for selected travel-related businesses in Tennessee.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
\$6,055,782,000	\$6,298,013,000	\$6,549,933,000

2. Number of requests for Tennessee travel information.\*

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
291,990	305,000	315,000

\*Additional inquiry data will be available upon completion of a system to identify and collect data regarding "unique visits" to the Department's website.

## **Obstacles to Meeting Objectives and Delivering Services**

There are obstacles that may have an impact on the Department's ability to deliver its objectives. These obstacles include: catastrophic events (natural or man-made) such as terrorism, fires, floods or tornados that can stop or slow down tourism and travel in one area, statewide, or nationally; national security issues, including changes in the national alert system, which may affect the public's feeling of safety when they travel and therefore alter their travel decisions; the prevailing economic climate which can affect travel in a negative way if the consumer's disposable income is reduced and it limits vacation plans.

## **Means of Overcoming Obstacles**

In order to overcome these obstacles, the Department will develop a Crisis Communication Plan to ease negative impressions or emotions when a catastrophic event occurs. The Department will adjust its marketing strategy to focus on close-to-home travel and day-trips in the event of long national security issues. In order to overcome negative shifts in the economic climate, the Department will have to adjust marketing strategy to focus more on budget travel and emphasize the fact that Tennessee is the eighth least expensive state to vacation.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Department's budget does not include any federal revenue.

## **Means of Avoiding Unnecessary Costs and Expenditures**

In order to maximize the use of available resources, the Department utilizes pre-testing research on the creative message used in the advertising campaign. This research gives advance information on how well a creative campaign may be received by the public. The Department also does post-buy analysis on media expenditures to ensure efficiency of the media schedule. A media audit will also be conducted on media expenditures to ensure the media ran when and where it was supposed to appear. In addition, the Department is audited every three years. The last audit was for fiscal years ending June 30, 2000.

## **Future Challenges and Opportunities**

A major challenge to the Department's ability to expand the economic benefits of travel and tourism is the ever-increasing competition from other states. In order to compete and create new opportunities, Tennessee must take advantage of advancements in technology, especially in area of web-based travel planning, and must find ways to partner with other state agencies and the tourism industry to capitalize on niche markets and creative promotions to maximize available financial and human resources.

## **Performance Data Schedule**

The collection of gross sales revenue data from selected tourism related in Standard Industrial Classification (SIC) codes is available on a quarterly basis. The data is then placed in a format necessary to update the measurements that have been established. This data will be available 90 days after the quarter end.

The collection of inquiry data is on a monthly cycle and comes from the Department's telemarketing center that receives caller and e-mail requests for a vacation guide. After the data is collected, it must then be summarized in a report for use in the Department's performance measure schedule. This data will be available on the 30<sup>th</sup> of the month after the previous month's end.

## **Data Verification**

Although the information collected is from very reliable sources, the Department will do an analysis of the information to detect and confirm any areas that have variances that need to be reconciled. A management review of the information is conducted prior to the data being published.

## **Welcome Centers**

### **326.03 Welcome Centers**

The welcome center division is responsible for managing the operations of the State's 13 welcome centers. It has employees at the main office in Nashville and the 13 centers located at all major interstates coming into Tennessee.

## **Statutory and Constitutional Objectives**

TCA 4-3-2204 identifies the statutory requirement to supervise a system of welcome centers in the State.

## **Mandated and Optional Services and Means of Providing Them**

The Department operates 13 welcome centers as mandated by TCA 4-3-2204. A new initiative and optional service that recognizes the marketing potential of each center to influence visitor travel in Tennessee is being established. The role of the welcome center travel counselors as front line ambassadors for promoting travel in Tennessee will be enhanced. The welcome center facilities will be better utilized to serve as a showcase for local and regional attractions and promotions. Activities such as maintaining and displaying a variety of brochures and travel literature from travel industry businesses, and assisting travelers by providing free reservations will continue to play a key role in encouraging visitors to extend their travel plans in Tennessee.

The maintenance staff at each center is responsible for the maintenance of the facilities and grounds and has the primary responsibility of providing travelers with a clean and comfortable environment to relax and enjoy their stay as required by TCA 4-3-2204. Other activities available at each center include vending machines, picnic areas, and computer systems that provide national weather information.

### **Performance Standards**

1. Manage a system of 13 welcome centers capable of serving 13 million visitors annually.
2. Encourage travelers to extend their stay in Tennessee by providing free reservation service and increase the annual number of reservations.

### **Performance Measures**

1. Annual number of visitors at all welcome centers.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
13,000,000	13,000,000	13,000,000

2. Number of reservations made for travelers.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
11,360	11,700	12,050

### **Obstacles to Meeting Objectives and Delivering Services**

The ability of the welcome centers to deliver its objective is affected by changes in consumer travel plans that the welcome center division has no control. The public may change travel plans as a result of catastrophic events (natural or man-made), national security issues, and economic conditions (gas prices, etc). All of these events can be short or long term conditions that slow, delay or cancel consumer travel plans.

In addition, the welcome centers may have mechanical or maintenance emergencies that temporarily affect the hours of operation. These emergencies may include such things as light poles that are hit by a vehicle, fall and create a hazard to other travelers, water pipes that break and flood a facility, sewage pipes that burst and cause a shutdown, ice and weather related conditions, and other emergencies.

### **Means of Overcoming Obstacles**

The welcome centers have no control over events that directly affect the number of visitors who choose to travel. When such events occur, the Department may utilize temporary signage, banners, other information, or promotional events to encourage travelers to stop at a center. In addition, if there is a slowdown in the number of visitors, the welcome center staff is trained to spend more time with the visitors there. This extra time and attention given to individual travelers is intended to encourage travelers to increase the length of their stay in Tennessee.

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Maintenance employees conduct preventive maintenance checks on the facilities and equipment at every center in order to spot problems before they become an emergency. When emergencies do occur, the centers call on support staff and staff from other centers that provide assistance and reduce the time that the center is not in operation.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Welcome Center budget is funded by interdepartmental revenues.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Each center is encouraged to try different maintenance products that are cost efficient or develop new procedures to reduce expenditures. When one welcome center finds a new product or service that is more cost efficient, that information is implemented throughout the system of 13 centers. In addition, the Division shares information with other state welcome center systems on new ideas that can control costs. In addition, the Department is audited every three years. The last audit conducted was for fiscal years ending June 30, 2000.

### **Future Challenges and Opportunities**

Some of the state's aging welcome center facilities will continue to face increased maintenance costs due to the high volume of visitors that go through the centers annually. It will be a challenge to maintain the service needs of the public at these aging facilities until new facilities can be built.

### **Performance Data Schedule**

The collection of visitor attendance information and reservation data is collected at each center on a monthly basis and is then reported to the central office where the data is compiled and reviewed for accuracy. The information is placed in a format necessary to update the measurements that have been established. This data will be available on the 30<sup>th</sup> of the month after the previous month's end.

### **Data Verification**

The data collected is audited at the center and in the central office for apparent discrepancies or significant variances. These questions are investigated and resolved prior to submission to the program measures. The data will be available the 30<sup>th</sup> of the month after the previous month's end.

# **Department of Economic and Community Development**

## **General Agency Information**

The Department of Economic & Community Development (ECD) is the arm of state government concerned with: promoting the location and expansion of industries into Tennessee; aiding existing businesses in their efforts to expand and create jobs; and forming strategic partnerships inside and outside state government with the ultimate end of creating better paying, higher-skilled jobs for Tennesseans.

ECD's legislative mandate is to increase employment opportunities for all Tennessee's citizens (TCA 4-14-105). Partnerships with local chambers of commerce, regulatory boards, utility districts, regional industrial development agencies (RIDAs), federal agencies, professional associations and individual businesses increase the scope and reach of ECD's efforts to improve the lives and economic welfare of Tennesseans.

The Department contains the following programs:

1. Administrative Services
2. Industrial Development
3. Business Services
4. Small and Minority Owned Telecommunications Program
5. Industrial Training Services
6. Job Skills Fund
7. Regional Grants Management
8. Tennessee Industrial Infrastructure Program
9. Community Development
10. Energy Division

The Department has headquarters in Nashville, six regional offices (Memphis, Jackson, Cookeville, Chattanooga, Knoxville and Tri-Cities) and three international bureaus (London, Toronto and Yokohama).

## **Administrative Services**

### **330.01 Administrative Services**

Administrative Services is subdivided into four sections representing the Commissioner's Office (includes Creative Services and Legal), Management Information Systems, Fiscal & Support Services, and Research.

The allotment code for Administrative Services also encompasses the activities of two autonomous organizations, and the various regional offices of ECD:

Film, Entertainment and Music Commission (FEMC, administratively tied to ECD)  
Tennessee Technology Development Corporation (TTDC, partnership funded by ECD)

## ECD Regional Development and Planning Offices

Administrative Services' activities include policy, legal, scheduling, communications (including public information), advertising, design, research, personnel, information technology and budgeting.

## **Statutory and Constitutional Objectives**

TCA 4-14-105 authorizes the entire Department of Economic and Community Development with increasing employment opportunities for all Tennessee's citizens.

TCA 4-3-702 requires the Commissioner to promulgate rules and regulations necessary for the operation of the Department.

TCA 4-14-106 assigns to the Department the task of developing and scheduling advertising, formulating collateral and handling public and media relations.

TCA 9-4-5103 states it is the responsibility of the Fiscal & Support Services section to submit the estimated budget to Finance and Administration.

TCA 4-14-106 and TCA 4-14-103 require the Research section to study and conduct research of the state's industrial resources and to undertake special surveys.

TCA 4-3-5005 assigns to the FEMC the task of attracting entertainment business to Tennessee.

TCA 4-14-305 states it is the responsibility of the TTDC to harness technology resources to improve the productivity of Tennessee businesses.

## **Mandated and Optional Objectives and Means of Providing Them**

TCA 4-14-105 mandates that the entire Department of Economic and Community Development increase employment opportunities for all Tennessee citizens.

TCA 4-3-702 requires the Commissioner to promulgate rules and regulations necessary for the operation of the Department.

TCA 4-14-106 assigns to the Department the task of developing and scheduling advertising, formulating collateral and handling public and media relations.

It is the duty of the Commissioner and his staff to guide the strategic and operational processes that move ECD toward fulfilling its mandates, and do so by carefully monitoring all departmental activities, interfacing as warranted with involved parties and organizing plans for the execution of all intradepartmental projects.

Services provided by the Management Information Systems (MIS) section are optional. Though optional, MIS provides the framework and tools necessary for the entire Department to accomplish its objectives. This section's staff undergoes training and interfaces regularly with the Office of Information Resources (OIR) to assure compliance with state guidelines.

TCA 9-4-5103 mandates the Fiscal & Support Services section to submit the estimated budget. The Fiscal & Support Services section works to provide the accounting and administrative support for the entire Department, and stays in close contact with the Department of General Services, the Department of Personnel, and the Department of Finance and Administration to ensure that the services provided meet not only ECD needs, but adhere to statewide guidelines.

TCA 4-14-103 and TCA 4-14-106 mandate the Research section to study and conduct research of the state's industrial resources and to undertake special surveys. The Research section is at the disposal of ECD staff members to provide quick access to information. This information is available in publications and books that are kept in a departmental library, as well as online. The section also performs data analysis and generates reports as necessary.

TCA 4-3-5005 mandates the FEMC to attract entertainment business to Tennessee. The FEMC attracts film, video, television, entertainment, music and recording interests to do work in Tennessee through networking and providing invaluable resources nationally and internationally.

TCA 4-14-305 mandates the TTDC to harness technology resources to contribute to improve the productivity of Tennessee businesses. The TTDC supports and fosters entrepreneurship and leadership among emerging technology companies.

Services provided by ECD's regional offices are optional. Though optional, ECD's regional offices serve as local points of contact for administration of projects and to provide Tennessee communities with a business and local infrastructure planning resource.

## **Performance Standards**

1. Design and implement a regional approach to promoting and positioning the distinctly different economies of the state within 18 months of assessment.
2. Implement a plan that will encourage the creation of new business start-ups with a focus on higher paying, emerging technologies.
3. Form and build upon relationships between ECD and its partners.

## **Performance Measures**

1. The number of months to establish and map the boundary lines of the various regional economies of Tennessee, and assign offices to assess the specific challenges of each of those regions within 24 months of start date.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	18	18

2. The number of months to establish a new program to encourage the growth of newly formed technology companies.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	24	24

3. The number of months to implement a new set of standards and protocols for partners with whom ECD has either co-financial or co-branded relationships.



Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	24	12

### **Obstacles to Meeting Objectives and Delivering Services**

Very few multi-county development cooperatives exist. Often, neighboring cities within each county are placed in competitive situations, which impedes the sharing of information.

No framework currently exists for a division inside ECD that is solely focused on nurturing start-up technology companies.

The various partnerships that ECD currently engages with have no standard protocols. Some are contractual and some are not.

### **Means of Overcoming Obstacles**

Existing development districts will serve as a springboard for defining the various regional economies. Local chambers of commerce and elected officials and other supporting groups will be brought into planning at the appropriate stages to encourage buy-in on the local level.

A task force representing all the divisions of ECD that could impact nascent companies will be formed to flesh out the plans for the new incubation program that will be detailed in the “Tomorrow Starts Today” document. The program will be created and staffed accordingly.

Protocols for partnerships will be defined and policies enacted to place specific guidelines on the parameters of all ECD’s relationships with outside interests.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

By concentrating efforts on regional economies, counties that share economic characteristics can also make better use of pooled and leveraged resources, resulting in a lessened risk of duplication of services.

The start-up division can help fledgling businesses by coordinating or exploring funding from private sources such as venture capital, and federal grants.

By more closely monitoring its partnerships, ECD can redirect federal and other non-appropriated monies into programs with a better return on investment.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Existing facilities will be used whenever possible as regional offices. ECD will work with allied partners to determine the regional approach, rather than hiring outside consultants to determine program boundaries and map strategies for it.

The new ECD program will coordinate the initiatives of strategic partnerships and explore all avenues of establishing funds for venture capital from the private sector, Federal programs and other sources.

Possible savings may be found in restructuring some partnerships to involve less financial commitments on the part of ECD.

By bringing more marketing and media production activities in-house, rather than outsourcing, the Department will be able to reduce the expenses and turn-around time associated with the development of marketing information.

By training administrative support staff to assist the Research section, the Department can effectively add man-hours to the section's capabilities, thus maximizing their time and saving money.

Electronic communications save paper and other materials.

The MIS section actively seeks ways to maximize the value of equipment purchased through a tiered replacement plan.

By using ECD existing resources, the FEMC web site will save thousands of dollars that would have been spent on outside marketing or networking consultants and third-party programmers.

## **Future Challenges and Opportunities**

It is ECD's desire that the intercommunity relationships established by the new regional economies, over the course of time, will spawn tightly cooperative regional partnerships that can succeed in attracting large employers into small communities and in developing revenue-sharing plans between communities.

With proper management and a dynamic vision, the new emerging technology incubation section of ECD could become a vital part of creating new jobs in Tennessee. The challenges will be to select the right ideas, and to monitor and shepherd them as they transform and grow into successful companies.

Partnerships must remain under constant review to ensure that the goals of the partner organizations remain congruent with those of ECD.

There are numerous potential opportunities for the Creative Services section as the Department forms relationships with other state agencies and departments. Managing the range of services needed by these new clients will require evaluation of new technologies, strong vendor supervision, efficient resource management and further refinements in cost-cutting internal procedures.

The Research section must develop methods of categorizing, cataloging and retrieving information in a timely fashion, and maximize the use of newly trained auxiliary personnel to concentrate on more strategically focused data collection and analysis. Partnerships with external research agencies could provide new avenues of data collection that will better prepare ECD's other sections to recruit, retain and create jobs for Tennesseans.

## **Performance Data Schedule**

Administration will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

## **Data Verification**

The Commissioner holds weekly meetings with the Assistant Commissioners, and bi-weekly meetings with section directors to be apprised of their progress toward meeting the objectives set forth by the Department.

## **Industrial Development**

### **330.02 Industrial Development**

Industrial Development is subdivided into three sections representing:

National Recruitment  
International Recruitment  
Special Projects.

### **Statutory and Constitutional Objectives**

TCA 4-3-706, 4-14-103 through 4-14-109 assigns the responsibility of the Industrial Development Division to attract and recruit new investments and create new jobs for Tennessee citizens.

### **Mandated and Optional Services and Means of Providing Them**

TCA 4-3-706, 4-14-103 through 4-14-109 mandates the Industrial Development section to attract and recruit new investments and create new jobs for Tennessee. This is accomplished through two areas of recruitment.

The national marketing area promotes the state as a premiere business location, searching out new investments. Regional marketing staff interfaces with local private and governmental entities to support the national effort but also to support and compliment their actions.

The international marketing and recruitment area markets the state internationally as a premiere business location. It also provides strategic counsel, support and coordination for the state's globally expanding business and commercial interests. When warranted, it organizes trade and business recruitment missions.

The special projects area is a service that is optional for the support of the overall new investment efforts. It provides engineering and environmental expertise, industrial site information, technical graphics and other resources to assist recruitment efforts.

## Performance Standards

1. The national and international areas will make 500 clients presentations over the next 12 months.
2. The section will generate 450 new contacts that can be qualified as potential investment prospects.
3. The business development section will field at least 480 calls, which will generate new potential relationships.

## Performance Measures

1. The number of client presentations made during the fiscal year recruitment trips.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	500	500

2. The number of contacts generated that can be qualified as potential investment prospects.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	450	450

3. The number of inbound calls, which will generate new potential relationships.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	480	480

## Obstacles to Meeting Objectives and Delivering Services

Efforts to attract new businesses are very competitive between states. A number of factors determine whether a company chooses a particular state for relocation. These include incentive packages, site availability, infrastructure, business climate, community livability and other factors. Tennessee's position vis-à-vis other states varies from project to project. The greatest obstacle to convincing businesses to relocate is competition from other states.

## Means of Overcoming Obstacles

To make Tennessee more attractive, the section must provide the best information about sites, make impressive presentations using well-conceived marketing materials, and construct incentive packages that highlight the strengths of Tennessee as a business location.

## Means of Maximizing Federal and Other Non-State Sources of Revenue

The section must fully exploit its own resources in personnel and leverage its partnerships with other departments and agencies of state and federal government, transportation and infrastructure

regulatory concerns, local chambers of commerce and elected officials, industry trade interests and supplier companies to increase incentives as much as possible before using appropriations.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Quarterly budget reviews enable the Division to track the monies expended on specific recruitment efforts and budget accordingly.

### **Future Challenges and Opportunities**

The section will need to stay competitive with other states over the long term. To do this, it must pursue a complex analysis of Tennessee's incentives and seek to improve them through legislation and other means. To continue reaching the right consultants, the database of potentially relocating companies must continue to be centralized, expanded and updated.

### **Performance Data Schedule**

Industrial Development will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

### **Data Verification**

Data composed of investment values, number of new jobs created and long-term revenue streams for Tennessee is gathered, analyzed and reported by the Department's research division. This is accomplished using staff and public announcements of new investments.

## **Business Services**

### **330.05 Business Services**

The Business Services section is divided into two areas representing:  
Existing Industry  
The Office of Business Enterprise (OBE).

### **Statutory and Constitutional Objectives**

TCA 4-14-105, 4-14-106 charges the Department with supporting and assisting Tennessee businesses and industries. These efforts assist with the retention and expansion of Tennessee companies.

TCA 4-26-101 establishes OBE within ECD and TCA 4-26-103 authorizes the Department to counsel and assist disadvantaged businesses so that they can preserve free competition on equal

terms with other businesses. The reasons for disadvantages could be race, religion, ethnic background, gender, disability or service in the armed forces. The OBE also administers the Small and Minority-Owned Telecommunications Program (330.03).

### **Mandated and Optional Services and Means of Providing Them**

TCA 4-14-105, 4-14-106 mandates the Department with supporting and assisting business and industry. Utilizing a staff of Existing Industry consultants positioned across Tennessee, this section supports the needs of Tennessee business and industry to encourage their prosperity and growth by consulting with them on infrastructure improvements, regulatory issues, continuing education for employees, and training. The Existing Industry section also advises Tennessee businesses on opportunities such as grants and loans that may be available to them.

TCA 4-26-103 mandates the OBE to provide assistance to disadvantaged businesses so that they could preserve free competition on equal terms with other businesses. This is done by counseling them on procurement policies by obtaining information concerning contracts, encouraging primary contractors to subcontract with disadvantaged businesses, coordinating the granting of franchises and dealerships from private firms to disadvantaged businesses, and developing training and educational programs for disadvantaged businesses.

An optional service which the OBE provides is identifying and developing sources of capital for entrepreneurs by assisting in setting up new minority banks, small business investment companies, and minority enterprise companies. The OBE also develops loan packages to assist persons operating small, and minority- or women-owned businesses in the start-up or expansion of businesses, and provides financial counseling to enable these operations to operate on a sound financial basis.

### **Performance Standards**

1. Consultants visit and attend companies each week.
2. Consultants visit and attend communities each week.
3. The OBE coordinates business development activities for business facing disadvantages entering the economic mainstream.
4. The OBE will make referrals each month to Small Business Assistance organizations.

### **Performance Measures**

1. The number of consultant visits to companies each week.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	72	72

2. The number of consultant visits to communities each week.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	16	16

3. The number of business development activities coordinated for businesses facing disadvantages entering the economic mainstream.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	50	50

4. The number of referrals made monthly to Small Business Assistance organizations.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	25	25

### **Obstacles to Meeting Objectives and Delivering Services**

Obstacles that could deter the attaining of the desired objectives include buy-in and commitment by local communities and organizations, and securing partners that are willing to participate in the costs associated with the organization and facilitation of the programs.

### **Means of Overcoming Obstacles**

Utilize existing resources to develop a marketing plan that will educate the various publics in the importance of developing and maintaining the various activities.

Use the stature of ECD, existing relationships, and the development of new partnerships to secure the necessary support of proposed programs.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Obstacles can best be overcome through improved training and communications and by developing partnerships that enhance fiscal shortfalls.

Costs to ECD can be defrayed by promoting closer partnerships and coordination between small business resources, such as the Small Business Administration (SBA), the Tennessee Small Business Development Center (TSBDC), the University of Tennessee Center for Industrial Services (UTCIS), the Tennessee Valley Authority (TVA), resource centers, local chambers of commerce and other state and federal agencies.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Section staff members employ experience and relationships to discover opportunities to access federal funds to support the section's programmatic efforts such as the U.S. Dept. of Agriculture (Rural Development), the Economic Development Administration, U.S. Department of Labor, the Appalachian Regional Commission, and the Delta Commission. Additionally, development of partnerships with private sector entities will be a high priority.

OBE has partnered with several other organizations that provide business assistance to entrepreneurs and small business owners to eliminate duplication of services: the Tennessee Board of Regents and TSBDC, the SBA, the Tennessee Technology Development Corporation

(TTDC), Minority Development Centers in Nashville and Memphis and other public and private organizations.

### **Future Challenges and Opportunities**

Maintaining staff's focus and continuity of effort are challenges. There is a myriad of opportunities, particularly in the areas of training of local community leaders, workforce evaluations, need analysis, career-focused education efforts, and training efforts that are industry-focused.

To continue or increase the monetary commitment to partner with the Tennessee Small Business Development Centers will allow additional clients to be served. An opportunity exists to budget for and publish a directory listing access to capital for small and disadvantaged businesses. In addition, opportunities for minorities and other disadvantaged businesses will be improved by expanding procurement of professional services and construction.

### **Program Data Schedule**

Business Services will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

### **Data Verification**

These activities are monitored on a weekly basis to assure significant results are achieved.

The effects of the OBE can be seen in the number of new businesses created and the decline in the number of business terminations, the amount of private investment in start-up and expansion of small businesses and the number of jobs created.

### **330.03 Small and Minority-Owned Telecommunications Program**

The Small and Minority-Owned Telecommunications Program provides loan guarantees, education, training, consulting, and technical assistance to help small and minority- or women-owned telecommunications businesses grow in Tennessee. The program is administered by Business Services, 330.05.

### **Statutory and Constitutional Objectives**

TCA 65-5-213 requires ECD, with assistance from the Comptroller of the Treasury relative to loan guarantees, to develop by rule the Small and Minority-Owned Telecommunications Business Assistance Program (the "Program"). All program assistance in accordance with TCA 65-5-213 is contingent upon the applicant complying with all applicable federal, state and local regulations for the operation of a telecommunications business.



## **Mandated and Optional Services and Means of Providing Them**

TCA 65-5-213 mandates that the small and minority-owned telecommunications business assistance program encourage and support such businesses and their development as well as enhance their ability to maximize business opportunities in telecommunications. To that end, the Small and Minority-Owned Telecommunications Business Assistance Program provides program assistance, which consists of loan guarantees, technical assistance and services and consulting and education services to qualifying businesses.

The Program is funded with contributions from telecommunications service providers and competing telecommunications service providers. The legislative intent regarding contributions is that Program assistance be fairly distributed among the geographic divisions of the state, with a maximum of 40% of such assistance allocated to any grand division and with assistance then equitably divided among qualifying businesses within the three grand divisions.

In furtherance of providing loan guarantee services to small and minority-owned businesses, the Commissioner of ECD, upon recommendation from a loan committee, determines such guarantees. The Comptroller provides the oversight of loan guarantees and administration. ECD's rules and regulations set forth prudent lending practices that the loan committee should consider when evaluating applications for loan guarantees under the Program.

The Program provides program services in the form of technical assistance and education and consulting services to qualifying businesses that may or may not be making application for loan guarantees under the Program. Additionally, in accordance with the purpose of the Program, which is to encourage and support small and minority telecommunications businesses, no person on the grounds of handicap, disability, age, race, religion, sex, national origin or any other classification protected by federal, state or statutory law, may be excluded from participation in or benefits of or otherwise be subjected to discrimination in the performance of the Program or in the employment practices of the applicant company.

## **Performance Standards**

1. Promoting the telecommunications program companies each week.

## **Performance Measures**

1. The number of companies receiving promotions on the telecommunications program each week.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	10	10

## **Obstacles to Meeting Objectives and Delivering Services**

One obstacle is the increase in need for assistance from companies.

### **Means of Overcoming Obstacles**

To overcome the obstacle, ECD will use the stature of ECD, existing relationships, and the development of new partnerships to secure the necessary support to provide assistance to these companies.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Costs to ECD can be defrayed by promoting closer partnerships and coordination between small business resources, such as the Small Business Administration (SBA), the Tennessee Small Business Development Center (TSBDC), the University of Tennessee Center for Industrial Services (UTCIS), the Tennessee Valley Authority (TVA), resource centers, local chambers of commerce and other state and federal agencies.

### **Means of Avoiding Unnecessary Costs and Expenditures**

OBE has partnered with several other organizations that provide business assistance to entrepreneurs and small business owners to eliminate duplication of services: the Tennessee Board of Regents and TSBDC, the SBA, the Tennessee Technology Development Corporation (TTDC), Minority Development Centers in Nashville and Memphis and other public and private organizations.

### **Future Challenges and Opportunities**

To continue or increase the monetary commitment with a partner will allow additional clients to be served.

### **Performance Data Schedule**

The Small and Minority-Owned Telecommunications Program will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

### **Data Verification**

The director of the Program verifies the information reported in the Performance Data Schedule.

## **Industrial Training Service and Job Skills**

### **330.09 Industrial Training Services**

The Industrial Training Service (ITS) operates under the aegis and direction of the Industrial Development section of ECD. The ITS also administers the Job Skills Fund.

### **Statutory and Constitutional Objectives**

The ITS was formed by Executive Order to administer an incentive program that helps attract and retain businesses that will create new jobs in Tennessee. TCA 4-3-703, 4-3-706, TCA 6-58-109, 6-58-110 and TCA 50-7-451 authorizes ITS to administer funds that can be used as incentives in the creation of municipal growth plans and the Job Skills Fund.

### **Mandated and Optional Services and Means of Providing Them**

TCA 4-3-703, 4-3-706, TCA 6-58-109, 6-58-110 and TCA 50-7-451 mandate ITS to provide financial training incentives to new and existing industry, to provide a database of potential service providers, to provide knowledgeable staff to assist with company-specific training proposals and requests and to explain and coordinate financial incentives, as well as to coordinate incentives with other service providers.

### **Performance Standards**

The ITS staff seeks to provide rapid response to requests from the recruitment and expansion arms of ECD for training incentive proposals, contracts and information on training opportunities available.

1. Provide training incentive programs for new industries.
2. Provide training incentive programs for existing industries.
3. Provide training information for new and existing business and industry.

### **Performance Measures**

Because of the complex variety of requests for information, proposals and contracts, measuring performance of response is largely subjective. Each request has a deadline and it is the objective of the section to meet those deadlines.

1. The number of new industries provided training incentive programs annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	12	12

2. The number of existing industries provided training incentive programs annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
20	20	20

3. The number of new and existing business and industry receiving training information annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	60	60

### **Obstacles to Meeting Objectives and Delivering Services**

Proposals draw information from a variety of sources, some of which are external and held in close confidence. A vast amount of information is often required very quickly, and companies for which proposals are being devised often require different sorts of information.

### **Means of Overcoming Obstacles**

By assigning a single project leader, one person is responsible for assigning other staff members to work on various portions of each project. This strategy allows the section to be adaptable to meeting different companies' needs.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

ITS cultivates partnerships with various training concerns in other developmental agencies as well as in the private sector.

### **Means of Avoiding Unnecessary Costs and Expenditures**

A project review committee analyzes information transmitted to companies as incentives and attempts to evaluate where improvements can be made in future proposals.

### **Future Challenges and Opportunities**

The section hopes eventually to establish a comprehensive divisional training program to encourage better utilization of departmental resources and expertise.

### **Performance Data Schedule**

Industrial Training Services will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

## **Data Verification**

Data is can be tracked through the reports generated by the section's records system.

## **330.13 Job Skills Fund**

The Tennessee Job Skills program is created in the Department of Economic and Community Development as a workforce development incentive program to enhance employment opportunities and to meet the needs of existing and new industries Tennessee by providing training grants to eligible employers. The Job Skills Fund is administered by the Industrial Development section.

## **Statutory and Constitutional Objectives**

TCA 50-7-451 mandates Job Skills to provide workforce development programs for existing and new business and industry, focusing on employers who promote high-skill, high-wage jobs in high technology, demand and emerging occupations.

## **Mandated and Optional Services and Means of Providing Them**

TCA 50-7-451 mandates Job Skills to provide workforce development programs for existing and new business and industry, focusing on employers who promote high-skill, high-wage jobs in high technology, demand and emerging occupations.

## **Performance Standards**

Provide rapid response to requests from new and existing business and industry for financial training incentives.

1. Provide training incentive programs for new industries.
2. Provide training incentive programs for existing industries.
3. Provide training information for new and existing businesses and industries.

## **Performance Measures**

Because of the complex variety of requests for information, proposals and contracts, measuring performance of response is largely subjective. Each request has a deadline and it is the objective of the section to meet the deadlines.

1. The number of new industries provided training incentive programs annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	12	12

2. The number of existing industries provided training incentive programs annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
20	20	20

3. The number of new and existing businesses and industries receiving training information annually.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	60	60

### **Obstacles to Meeting Objectives and Delivering Services**

Proposals draw information from a variety of sources, some of which are external and held in close confidence. A vast amount of information is often required very quickly, and companies for which proposals are being devised often require different sorts of information.

### **Means of Overcoming Obstacles**

By assigning a single project leader, one person is responsible for assigning other staff members to work on various portions of each project. This strategy allows the section to be adaptable to meeting the needs of different companies.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

ITS cultivates partnerships with various training concerns in other developmental agencies as well as the private sector.

### **Means of Avoiding Unnecessary Costs and Expenditures**

A project review committee analyzes information transmitted to companies as incentives and attempts to evaluate where improvements can be made in future proposals.

### **Future Challenges and Opportunities**

It is projected for the foreseeable future that the present level of resources will be adequate.

### **Performance Data Schedule**

Job Skills will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

## **Data Verification**

Data is collected from each individual training project and verified by staff records and with client input.

## **Community Development Services**

### **330.04 Regional Grants Management**

Regional Grants Management (RGM) is the section of ECD that is charged with the administration of grants and loans. RGM administers the following programs:

Community Development Block Grants (CDBG)  
Appalachian Regional Commission Grants (ARC)  
Delta Regional Authority Grants (DRA)  
Private Activity Bonds (PAB).

### **Statutory and Constitutional Objectives**

TCA 4-3-728 mandates CDBG to target areas of economic distress, stimulate the growth of jobs and income in these areas, and maximize the number of grantees.

### **Mandated and Optional Services and Means of Providing Them**

Housing and Community Development Act of 1974, Title I authorizes the Department to target areas of economic distress, stimulate the growth of jobs and income in these areas, and maximize the number of grantees. Additionally, all CDBG projects must meet one of the three national objectives of principally benefiting persons of low and moderate income, elimination or prevention of slums and blight, or elimination of conditions detrimental to health, safety or public welfare.

TCA 4-3-728 mandates CDBG to use a substantial portion of such grants whenever reasonably possible for the development of contracts with disadvantaged businesses as defined in 4-26-102(5).

Appalachian Regional Development Act of 1965 created the ARC. ARC is mandated to stimulate substantial public investments in services and facilities that will attract private sector investment and start the region on its way toward accelerated social and economic development. Its objectives are to help the regional economy become more competitive by putting in place the building blocks for self-sustaining economic development, while continuing to provide special assistance to the Region's most distressed counties.

The Consolidated Farm and Rural Development Act was amended in 2000 to include the Delta Regional Authority. DRA is mandated to help economically distressed communities to leverage other federal and state programs that are focused on basic infrastructure development and transportation improvements, business development, and job training services.

TCA 9-20-102 authorizes the Commissioner of ECD to prepare and implement a plan for the allocation of the state's volume limitation of private activity bond (PAB) authority authorized under federal tax legislation. PABs are federal bonds issued at the local level in Tennessee. Though an optional service, ECD manages the cap by taking reservations for this bond authority. The state gives maximum priority to manufacturing, both small issue and exempt facility bonds. The Department coordinates with the Tennessee Housing Development Authority (THDA) and Educational Services of the South (EdSouth), a student loan organization designated by the Tennessee Student Assistance Corporation (TSAC) for the use of the bond authority.

### **Performance Standards**

1. Review and analyze Community Development Block Grant applications within 180 days.
2. Review and analyze Appalachian Regional Commission pre-applications within 120 days.
3. Review and analyze Delta Regional Authority pre-applications within 90 days.

### **Performance Measures**

1. The percentage of CDBG pre-applications reviewed and analyzed within 180 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	90%	90%

2. The percentage of ARC pre-applications reviewed and analyzed within 120 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	90%	90%

3. The percentage of DRA pre-applications reviewed and analyzed within 90 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	90%	90%

### **Obstacles to Meeting Objectives and Delivering Services**

Changes mandated by HUD, ARC, DRA and other agencies require retraining of staff and changes to procedure. Announcement of project funding is often controlled outside ECD, and as such, shortens application times for communities seeking grants. ECD objectives must be specifically tailored to meet the requirements of the consolidated plan submitted to the federal government.

### **Means of Overcoming Obstacles**

Improved communication with localities during the community program review period to ensure mutual expectations regarding program activities is important.



### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

RGM attempts to maximize all grant or loan sources (state, federal, and local) for community and industrial projects.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The section seeks to adequately manage projects to ensure that any cost overruns are necessary and justifiable.

### **Future Challenges and Opportunities**

Lack of adequate federal funding for the programs could impact communities served.

### **Performance Data Schedule**

Regional Grants Management will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

### **Data Verification**

RGM uses a system of accountability for data that includes weekly monitoring of projects by staff, monthly reports of projects, and an annual performance evaluation report for HUD.

## **330.06 Tennessee Industrial Infrastructure Program (TIIP)**

The General Assembly in July 1988 created the “95 County Jobs Program” – better known today as the Tennessee Industrial Infrastructure Program (TIIP). The Regional Grants Management area administers this program.

### **Statutory and Constitutional Objectives**

Public Chapter 0356, Section 32 mandates ECD to provide grants and loans to local government and businesses for job creation and retention.

## **Mandated and Optional Services and Means of Providing Them**

Public Chapter 0356, Section 32 mandates ECD to provide grants and loans to local government and businesses for job creation and retention. These funds shall be used for industrial infrastructure and industrial training.

All activities performed by the program management office derive from or implement the above stated statutory provisions through the following:

Developing and maintaining a system for extending services to localities and companies that elect to participate in the program for infrastructure improvements;

Defining staff workloads to achieve the goal of grant administration at the state and the local level and provide adequate staff to meet current demands;

Establishing formal lines of communication and working relationships among the staff, the communities, the companies, and the development districts and other consultants; and

Providing advisory assistance to communities for the management of the grants and loans.

## **Performance Standards**

1. Review and analyze applications submitted within 30 days.

## **Performance Measures**

1. The percentage of applications reviewed within 30 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	80%	80%

## **Obstacles to Meeting Objectives and Delivering Services**

An obstacle is program changes mandated by ECD grant and loan committee during the program year.

## **Means of Overcoming Obstacles**

To overcome this obstacle, ECD will improve communication with applicants during the project review.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The Tennessee Industrial Infrastructure Program is a state funded program. The Department works on a project by project basis to maximize federal and other non-ECD programs to make a project work for the community and industry involved.

## **Means of Avoiding Unnecessary Costs and Expenditures**

From a program view, an attempt is made to hold cost down by utilizing an ability to pay index for each of the communities in the state. From an operational view, in 1995, ECD had four loan officers working on TIIP projects. Today ECD has none.

## **Future Challenges and Opportunities**

The lack of adequate state funding could affect the program. Opportunities exist for expansion of services provided to high-tech and biotech industries.

## **Performance Data Schedule**

The Industrial Infrastructure Program (TIIP) will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

## **Data Verification**

Regional Grants Management uses a system of accountability for data that includes daily project review by managers, weekly report of grant and loan committee meetings, follow-up on job creation for the projects, as well as a financial review of the grant funds used, as well as providing reports to the General Assembly on a monthly basis. The main focus is on new jobs to be created, new investments in the state, and the quality of jobs for that community that is verified by program managers and the director.

## **330.07 Community Development**

The Community Development section is divided into two areas representing:

The Community Economic Development Office (CEDO)  
Local Planning Assistance (LPA).

## **Statutory and Constitutional Objectives**

TCA 4-14-106 requires the Department to provide advice and technical assistance to local governments, chambers of commerce and other agencies, groups and individuals in the promotion of the general aims of ECD.

TCA 4-3-726 requires the Local Planning Assistance section to make studies or report on any planning matters or problems affecting municipalities and counties and does so under contractual agreement with the respective legislative bodies.

## **Mandated and Optional Services and Means of Providing Them**

TCA 4-14-106 mandates the CEDO to provide advice and technical assistance to local governments, chambers of commerce and other agencies, groups and individuals in the promotion of the general aims of ECD.

TCA 4-3-726 mandates the Local Planning Assistance section to make studies or report on any planning matters or problems affecting municipalities and counties and does so under contractual agreement with the respective legislative bodies.

## **Performance Standards**

1. Provide advice and technical assistance to local governments, chambers of commerce and other agencies, groups and individuals.
2. Make studies or report upon any planning matters or problems affecting municipalities and counties for contractual agreements.

## **Performance Measures**

1. The percentage of advice and technical assistance provided to all local governments, chambers of commerce and other agencies, groups and individuals in the promotion of the general aims of ECD within 30 days.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0	80%	80%

2. The number of municipalities and counties under contractual agreements receiving studies or reports regarding any planning matters or problems within 12 months.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
210	210	210

## **Obstacles to Meeting Objectives and Delivering Services**

Incentives will be needed to restore the credibility of the Three-Star Program.

Program mandates by the localities during the program year are in a constant state of flux.

### **Means of Overcoming Obstacles**

A renewed strong commitment from the Governor and Commissioner to improve the well being of Tennessee's rural and small-town economic development landscape is currently the greatest tool at the CEDO's disposal.

LPA must improve communication with localities during the community program review period to ensure mutual like-minded expectations regarding staff activities.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

The CEDO has developed a revenue plan for the Three-Star Program (selling items such as road signs) and ECD partners with the state's Development Districts to maximize resources.

LPA currently fully utilizes federal sources of revenue available through the Federal Emergency Management Agency for the National Flood Insurance Program community assistance program, and maximizes local sources of revenue which fund approximately 38% of program costs.

### **Means of Avoiding Unnecessary Costs and Expenditures**

Placing personnel in regional offices will reduce travel expenses. The CEDO will regularly monitor budgeted expenditures to assure maximum efficiency of resources.

Develop incentives to retain staff would help to avoid the high cost of retraining because of high staff turnover.

### **Future Challenges and Opportunities**

The CEDO strives to continue expanding its positive impact on every community across the state and eventually see results that ECD has touched every part of the state, which will require the Department's collective staff working as a unified team.

### **Performance Data Schedule**

Community Development will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

### **Data Verification**

In both sections, databases are kept that monitor the progress of all activities.

LPA uses a system of accountability for data that includes daily and weekly monitoring by the community planning regional directors through direct supervision of the regional office staff,

submission of monthly reports of planning commission meetings kept on file in each regional office and submitted to the local government, annual community evaluations and work program designs kept on file in the regional office and local government, and six annual regional office reports and program designs kept on file in the regional office and with the section director.

## **Energy Division**

### **330.08 Energy Division**

The Energy Division is dedicated to sharing energy efficiency and conservation methods with Tennessee businesses, manufacturers and local governments. By providing information and financial support, they assist communities in implementing measures for the productive use of energy. Investments in these programs have a ripple effect throughout the local economy. For instance, every dollar that is spent on energy efficiency rather than consumption is reflected exponentially in local economic growth.

The Energy Division manages several different programs that benefit state and local governments, businesses and industries, schools and residential energy consumers in Tennessee.

### **Statutory and Constitutional Objectives**

The Energy Division was established under TCA 4-3-704 to oversee the federally funded State Energy Program (SEP) under the directives of the U.S. Department of Energy (USDOE).

### **Mandated and Optional Services and Means of Providing Them**

TCA 4-3-704 mandates the Energy Division to develop and operate energy efficiency programs. The Energy Division administers these programs with federal funds from the United States Department of Energy.

### **Performance Standards**

The annual plan establishes milestones for program elements identifying expected activities to be completed for a wide variety of initiatives. Milestones include a timeline and units of service for each specified program measure.

1. Administer energy programs.
2. Make public information and outreach contacts.
3. Provide technical assistance, contacts, and support for local governments and communities within 12 months.
4. Prepare programmatic and financial reports to state and USDOE within 12 months.

## Performance Measures

1. The number of energy programs administered within 12 months.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	15	15

2. The number of public information and outreach contacts made within 12 months.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	30,000	30,000

3. The number of local government and communities receiving technical assistance, contacts, and support within 12 months.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	3,000	3,000

4. The number of program and financial reports prepared for state and USDOE within 12 months.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	30	30

## Obstacles to Meeting Objectives and Delivering Services

One of the federal grants requires the state to adopt specific energy efficient building codes. In addition, Executive Order #37 required ECD/Energy to develop and operate a pilot demonstration program for merchant electric generating plants.

## Means of Overcoming Obstacles

Legislation was passed in FY2002/2003 that allowed the present code to continue and allowed the local government the option of adopting the new mandated code. During FY2003/2004 the Department will be providing training on the new code to local governments and working on again changing the legislation to mandate only the newest code.

## Means of Maximizing Federal and Other Non-State Sources of Revenue

Federal funds are utilized to coordinate with ECD initiatives serving business, local governments and communities. The Department continues to pursue additional funding from other sources to assist communities in implementing measures for the productive use of energy. A dollar spent on energy efficiency rather than consumption is reflected exponentially in local economic growth. The Energy Division also seeks Special Project funding which is competitively awarded through the USDOE, as well as other competitively awarded projects from various sources whenever they become available.

### **Means of Avoiding Unnecessary Costs and Expenditures**

The Department will continue efforts to track invoices and budgets on a monthly, quarterly and annual basis. Annual plans and budgets have been developed for each program cost center. Each invoice or expenditure is tracked by allotment code and cost center. Records are checked against monthly departmental reports to verify spending. This process is the basis for quarterly and annual reports required by the federal agencies, and is used in the planning process for the next year.

### **Future Challenges and Opportunities**

Energy prices are expected to rise in the future, especially in the areas of natural gas and residential electricity prices. This could lead to an increased demand for consumer information and services. The Energy Division plans to expand the availability of information on their website, and to develop new downloadable materials for citizens to use.

### **Performance Data Schedule**

The Energy Division will be releasing reports on a quarterly basis, the first of which will be released 10 business days after the end of the quarter.

### **Data Verification**

Financial and programmatic information is obtained through monitoring, regular reporting, and receipt of deliverables as identified through the planning process.



# **Department of Transportation**

## **General Agency Information**

The Department of Transportation plans, designs, constructs, operates and maintains the state's highway network. The Department is also responsible for other modes of transportation such as aeronautics, public transit, railroads, and waterways. The Department of Transportation (DOT) consists of four major areas: Headquarters, Bureau of Administration, Bureau of Engineering and Bureau of Environment and Transportation Planning.

The mission of the Tennessee Department of Transportation (TDOT) is to plan, implement, maintain and manage an integrated transportation system for the movement of people and products, with emphasis on quality, safety, efficiency, and the environment.

The Department contains the following:

1. Headquarters
2. Insurance Premiums
3. Bureau of Administration
4. Bureau of Engineering
5. Bureau of Environment and Planning
6. Field Engineering
7. Mass Transit
8. Field Construction
9. Field Maintenance Operations
10. Equipment Purchases and Operations
11. Planning and Research
12. Highway Maintenance
13. Highway Betterments
14. State Aid
15. State Industrial Access
16. Interstate Construction
17. Forest Highways
18. Local Interstate Connectors
19. State Highway Construction
20. Capital Improvements
21. Bridge Replacement
22. Air, Water and Rail Transportation

The Tennessee Transportation system has 14,150 miles of roadway, of which, 1,073 miles are interstate and 13,077 miles are state roads. On this system, there are 7,580 state-owned bridges and 12,010 locally owned bridges. There are 19 interstate rest areas, 13 interstate welcome centers and nine truck weigh stations are on the interstate system.

The transportation system also includes 76 public use airports, six commercial airports and 110 heliports; 888 main channel miles of navigable rivers; 20 short line railroads operating on 810

miles of rail and six major rail lines operating on 2,340 miles of rail; 24 transit (bus, van, and light rail) systems serving 95 counties; and five regional bicycle trails totaling 690 miles, one 500-mile cross-state bicycle trail, 8,500 roadway miles with four-foot shoulders to accommodate bicycles and 150 miles of greenways, sidewalks, and trails.

To meet Governmental Accounting Standards Board Statement 34 (GASB 34) reporting requirements (modified approach), an assessment of the condition of the Tennessee Transportation System must be conducted. The Department uses a Maintenance Rating Index (MRI) to determine roadway condition and National Bridge Inventory (NBI) standards to determine bridge condition. These condition assessments are performed on bridges and roadways regardless of the funding for a given bridge or road. Therefore, these condition assessments are used as Performance Standards wherever applicable.

## **Headquarters**

### **401.00 Headquarters**

This allotment provides funding for the Commissioner's office and staff. Staff functions included are Civil Rights, Legal, Community Relations, Internal Audit and Aeronautics. These areas provide general management and staff support to the total Department.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

### **Mandated and Optional Services and Means of Providing Them**

Services are provided in the areas of Civil Rights, Legal, Community Relations, Internal Audit and Aeronautics. It also contains the office of the Commissioner of Transportation who is the Chief Operating Officer of the Department.

The Civil Rights Office is mandated to implement the federal and state Affirmative Action Plans and the Equal Employment Opportunity policies and procedures. This office also has under its direction the Title VI Program and Small Business Development. Service delivery is carried out by the TDOT staff in the areas of diversity training, employee retention strategies for minority and female employees, implementation of a recruitment plan for increasing minority and female applicants for TDOT positions, assistance in identifying career paths for women and minorities, Federal and State Affirmative Action Plans (FHWA and TN Department of Personnel), Equal Employment Opportunity Policy and Procedure (EEOC and TN Department of Personnel), Unified Certification Program (UCP) – the US Department of Transportation (DOT) regulations requires that the Secretary review the UCP through 49 CFR 26.81 (4), and Title VI Compliance Program 23 CFR 200.9.

The Legal Office assists other Divisions in complying with statutory requirements and any court

Department of Transportation

orders affecting the Department; provides legal advice to the Commissioner and his staff. The Legal Office staff also interacts with other state and federal agencies (U.S. Department of Transportation and Federal Highway Administration) to assure compliance with the many statutes and regulations affecting this Department. Legislation that would have an impact on this Department is monitored by the General Counsel. Information is provided to members of the General Assembly on matters pertaining to this Department, including testimony before House and Senate committees. Legislation to be introduced on behalf of the Department is drafted by the General Counsel who works with legislators and other interested parties to accomplish its passage.

The Community Relations Division has just recently been established to conduct outreach activities to the community, the legislature and customers. This division will manage public meetings and hearings, establish relationships with community groups, assist the general public in accessing TDOT's services, answer questions and concerns, work with the legislature to promote TDOT's agenda through legislation, and provide better communication inside and outside the Department. This division includes the Communications Office, Constituent Services and Legislative Office.

The Communications Office responsibilities include being the clearinghouse for information about the services and projects of the Department of Transportation and communicate this information to its employees and the public through the news media, the advertising media, internet and other communication methods and vehicles.

The Constituent Services Office functions include developing a department-wide public involvement plan; providing answers to all correspondence to the Commissioner; developing and maintaining a database of community leaders and organizations to be used throughout the Department to promote TDOT and to assist in project development; and working with TDOT's customers to answer questions and help with concerns.

The Legislative Office functions as a departmental liaison with the General Assembly. This office works with members of the General Assembly to promote the Department's agenda through legislation. Assistance is provided in legislative matters and explanations are given for legislation involving the Department.

The Internal Audit Office oversees the mandatory provision of the Financial Integrity Act and is charged with reporting any shortages of money or property to the Comptroller's Office. This office conducts investigations, audits and provides consulting to division offices in TDOT. This division provides its services with staff professionals.

The Aeronautics Division is responsible for licensing public airports in Tennessee, for monitoring compliance with federal grant assurances and providing flight services for all branches of state government (all mandatory). It also performs engineering services, aviation planning studies, airport improvement and project design consultation and educational services such as the Civil Air Patrol (CAP) and aerospace workshops. All of these services are provided by state employees in this area.

This program also provides the necessary funding for the Facilities Revolving Fund charges mandated by the Department of Finance and Administration.

## **Performance Standards**

1. License all 76 public use airports in Tennessee.

## **Performance Measures**

1. The percentage of the 76 public use airports in Tennessee licensed by TDOT.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
88%	95%	95%

## **Obstacles to Meeting Objectives and Delivering Services**

DOT anticipates an increased need for aviation facilities and services in the state over the next decade. The Tennessee Airport System Plan, completed in November 2001, indicated many companies are operating larger and faster General Aviation (GA) aircraft which impact capability of current facilities to adequately handle the transportation needs.

Other obstacles include the increased demand for timely information on conditions that affect daily travel and for public involvement in key phases of transportation planning and project decision making.

## **Means of Overcoming Obstacles**

Regular review, updating, and implementation of the Tennessee Airport System Plan will help to focus on airport improvements needed to keep up with increased demands.

A Community Relations Division has been established to build partnerships with communities across the state, provide timely information to citizens regarding travel in Tennessee, and to increase public involvement in key transportation planning and development processes.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or other non-state sources of revenue that are available to fund this program. It is funded with 100% state funds.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Monthly budget versus expenditure report is provided to each division director on a monthly basis for review.

## **Future Challenges and Opportunities**

Future challenges and opportunities include providing a wide range of services with a relatively small staff, focusing on the importance of providing better information to customers, meeting funding needs for statewide airports on limited funds, and ensuring that all TDOT sub-recipients are complying with Title VI.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All audits and legal proceedings are on file in their respective offices in this division. Cost and expenditure data is recorded in the TDOT STARS accounting system.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to begin in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **414.00 Insurance Premiums**

This program consists of payment of claims to third parties on the basis of awards made by the State concerning the Department of Transportation.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

TDOT is assessed its share of the annual premium in order to support the state Board of Claims. The amount of this service is determined by the degree of risk of TDOT’s operations (bridges, roads, etc.) and is formulated by an actuary.

After presentation to, and consideration by the Board of Claims, a recommendation is made on each claim.

## **Performance Standards**

1. Provide funds for insurance premiums as directed by the Department of Finance and Administration.

## **Performance Measures**

1. Provide 100% of the actuarial estimate for TDOT's insurance premiums each year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

Increasing assessments for insurance premiums takes away much needed funding from highway construction and maintenance.

## **Means of Overcoming Obstacles**

This assessment could be funded through the state general fund along with all other insurance premiums.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or non-state revenues in this service.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Costs variance may exist depending on the actuarial estimates made by the Finance and Administration consultant.

## **Future Challenges and Opportunities**

Building and improving roads and bridges to standards that will reduce the incidence of risk to the Department.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All audits and legal proceedings are on file in their respective offices in this division. Cost and expenditure data is recorded in the TDOT STARS accounting system.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **Bureau of Administration**

### **402.00 Bureau of Administration**

This bureau provides funding for the administrative activities of the Department. Functions include Governor's Highway Safety, Finance, Central Services, Human Resources and Information Technology. These areas provide general management support to the Department.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

### **Mandated and Optional Services and Means of Providing Them**

Services are provided in the areas of Governor's Highway Safety, Finance, Central Services, Human Resources, and Information Technology.

The Governor's Highway Safety Office (GHSO) is responsible for managing the State and Community Highway Safety Funds allocated under Section 402- Title 23 U.S.C Chapter 4. The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) allocates traffic safety funding for all states by a formula and is administered by the National Highway Traffic Safety Administration (NHTSA). To accomplish the mandates, GHSO initiated highly visible 18- month education and enforcement campaigns such as *You Drink & Drive, You Lose* and *Click It or Ticket*.

The Finance Office provides the total accounting system for the Department of Transportation, which involves comprehensive documentation and sound financial reporting. Budget preparation and reporting provides cost control and insures that maximum service benefits accrue to the public under Chapter 33 P.A. of 1937. To accomplish its mandate, the Finance Office uses information submitted by various DOT offices, F&A, and FHWA to prepare an annual budget document. Once the budget document has been submitted and approved, it is entered into both DOT and F&A accounting systems. Financial activities are coordinated with the Department of

Finance and Administration to ensure adherence to policy and law as pertains to Budget Preparation included in Chapter 33 P.A. of 1937 and TDOT Funding found in TCA 67-6-103(b), TCA 67-3-1301, TCA 67-3-2005, TCA 67-3-13-3, TCA 55-4-103.

The Central Service Office is charged with the coordination and general administration of staff services, the reproduction of technical drawings, specifications, forms and contracts, and official documents. TCA 55-7-205 sets forth the guidelines pertaining to overweight and over-dimensional permits administered by the Central Service Office. TCA 12-6-110 requires the Office to handle records management and publications for the Department. The Office accomplishes its mandates by issuing special permits for the movement of overweight and over dimensional loads statewide; purchasing "Alternative Fuel Vehicles" in compliance with Federal requirements; maintaining, modifying, renewing and updating Federal radio licenses for TDOT; coordinating Highway Maintenance Service radio frequencies, under AASHTO and FCC authorization, for all Tennessee State and local government user-agencies; following guidelines pertaining to overweight and over-dimensional permits, as represented in TCA 55-7-205; conveying revised plans to potential bidders at the same time or as near as possible; and abiding by Records Management and Publications requirements as represented in TCA 12-6-110.

The Human Resources Office provides direct personnel management service to the Department through employee processing, records, maintenance, employee relations, and classification/compensation. The Office serves as a liaison between Department of Transportation and the Department of Personnel. The Human Resources Office is required under Federal law to enforce the Americans with Disability Act, Drug/ Alcohol Testing, Commercial Driver's License (CDL), Family and Medical Leave Act, Fair Labor Standards, Health Insurance Portability and Accountability Act (HIPAA), Sexual Harassment, and Title VII, Civil Rights Act of 1964. In addition to Federal mandates, the Office is required to uphold the Civil Engineering Act (TCA 8-30-333) and Civil Service Employment Law (TCA 8-30). Human Resources satisfies the mandates by offering specialized training in Americans with Disabilities, Communications, Customer Service, Geopak and Synchro, and Family and Medical Leave Act, Progressive Disciplinary Action, and Sexual Harassment for all employees.

The Information Technology Division (IT) is responsible for the direction, planning, coordination and management of the Department's computerized information resources. The Division has three offices: Systems and Network Administration, Applications Development and Support, and Geographic Information Systems. IT staff evaluate, purchase and install computer hardware and software; manage the Department's LAN/WAN; support mainframe computer applications; and provide technical assistance to Department personnel in their use of these resources. The IT Division is responsible for computer application systems development and maintenance for TDOT. Included are mainframe, client server and internet applications with functionality covering accounting and billing, engineering drawing and design, geographic information systems and data base design and maintenance. The IT Division is required to submit an Information Systems Plan (ISP) outlining its information systems activities for the current year and projection for the next two years.

## **Performance Standards**

1. Increase seat belt usage in Tennessee by 2% annually.
2. Reduce the fatality rate by 2% annually on Tennessee roadways through increased seatbelt and child restraint use and a reduction in impaired drivers.



## Performance Measures

1. Percent of usage of seat belts in Tennessee.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
68%	70%	73%

2. Percent of reduction in fatality rate on Tennessee roadways.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	2%	2%

## Obstacles to Meeting Objectives and Delivering Services

Increased complexity of highway safety issues requires a systems approach to reducing fatalities on highways. Making the highway system safer involves education and awareness, engineering, legislation, enforcement and emergency response. The development of common objectives and the successful coordination of various agencies and groups to address these objectives are needed to achieve long term results.

Another obstacle is the increased complexity of interfaces with and between new information management systems to avoid duplication of effort and assure access to needed data.

Increased service requirements plus adoption of new technology to meet service needs require employees in some areas to have competencies and skill sets that are different than previously identified.

## Means of Overcoming Obstacles

A statewide Strategic Plan for Highway Safety could provide the linkage for all agencies to pool resources to work towards common objectives to achieve reduction of fatalities on the state highway system. The Department is currently working on an initiative to begin development of a state Strategic Plan for Highway Safety.

The Department's Strategic Planning Office is currently working to implement a revised strategic planning process that better links the information system plan, the budget process, and the long range multimodal planning process.

Human resources staff review of changing service requirements can identify and analyze competencies and skills needed and develop a workforce plan to assure staff with appropriate skill and training are available to perform needed services.

## Means of Maximizing Federal and Other Non-State Sources of Revenue

Not responding to highway safety trends as well as federal laws and mandates, can result in the loss of millions of dollars in penalties and sanctions for the state. It's important to meet federal

requirements in order to ensure outside funding.

### **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Monthly budget versus expenditure report is provided to each division director on a monthly basis for review.

### **Future Challenges and Opportunities**

Future challenges include meeting departmental goals with limited funding, compensating existing high performing staff, recruiting, retaining, and rewarding qualified staff, replacing all equipment department-wide that has reached its established replacement criteria; building a systemic approach, which includes enforcement, prosecution, adjudication, treatment and evaluation, to increase long-term change on highway safety behaviors, and maintaining information system staff expertise to ensure proper support of existing production systems and future application development.

### **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

### **Data Verification**

All cost and expenditure data is recorded in the TDOT STARS accounting system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **Bureau of Engineering**

### **403.00 Bureau of Engineering**

This bureau provides for the transportation programming, roadway and bridge design, and right-of-way acquisition, and scheduling of all preconstruction activities of the Department's construction work. It also provides for development of construction standards, administration of highway and bridge maintenance, regulation and control of traffic, coordination of regional outdoor advertising control, and maintaining acceptable materials standards.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

The Bureau of Engineering provides planning and development support to all bureaus of the Department of Transportation. Responsibilities include data collection, mapping, program development and scheduling, design, right-of-way acquisition, estimates, aerial surveying, construction, maintenance, traffic engineering, materials and geological testing.

The Project Management Office manages the development of projects from inception through close out; establishes teams comprised of all functional areas to coordinate project development; develops project schedules and estimates; monitors project progress to complete quality projects on time and within budget; and addresses and resolves project issues and problems as they occur.

The Incident Management Office is responsible for the quick clearance of incidents on the interstate and other access controlled highways. This is being accomplished now in the four major cities by the deployment of the HELP trucks with highly trained operators. This office and the regional coordinators will work toward the deployment of readiness response trailers for major incidents throughout the interstate system. In conjunction with the trailers, detour routes will be established for use in long term interstate closure.

The Program Development and Administration Division consists of two offices. The Program Development And Scheduling Office is responsible for preparation, coordination, monitoring and adjustment of the Department of Transportation's construction work. Projects are selected based on their relative urgency, available resources and legislative and administrative objectives. The office also acts as liaison for the planning functions and program development activities by providing schedules for all Department activities required to accomplish the construction work.

The Program Operations Office serves as a liaison between the Federal Highway Administration and the Department of Transportation by obtaining the various necessary approvals and authorizations for carrying out the Department's scheduled construction for each phase of project development.

The Right of Way (ROW) Division is responsible for the appraisal and acquisition of land needed for state highway construction and relocation of families and businesses affected. This Division develops policies and procedures implemented by regional field offices in acquiring rights-of-way.

The Design Division oversees the survey and design functions of the Department, including the performance of aerial and ground surveys, the establishment of roadway design criteria, and the development of right-of-way and construction plans for proposed highway improvement projects. Plans Sales is also a function of the Design Division. Division staff provide supervision for projects prepared by consulting firms. In this Division, the Intelligent Transportation Systems Office prepares designs and estimates involving ITS technology in the accomplishment of the highway construction service.

The Construction Division coordinates and supervises the state highway construction service. It develops and defines acceptable standards for methods and materials used and conducts bid lettings.

The Maintenance Division is responsible for the administration of statewide highway and bridge maintenance services insuring safety, user convenience and conservation of aesthetic qualities. Policies, procedures and standards are developed which include betterment work and preventive maintenance in order to protect the State's investment in highways and bridges.

The Structures Division designs and develops plans and specifications relating to all highway structures as well as conducts structural inspections and develops inspection reports.

The Materials & Tests Division functions include physical and chemical testing of materials sampled in the field, and design research of asphalt and concrete.

### **Performance Standards**

1. Let construction contract on five of the 119 “choke points” identified in the Transportation System each year.
2. Connect at least one county seat to the interstate highway system each year until all 95 county seats are connected.
3. Reduce the fatality rate by 2% annually on Tennessee roadways through traffic and engineering design factors.

### **Performance Measures**

1. The number of construction contracts let to address “choke point” problems.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
37	46	49

2. Number of county seats connected to the interstate highway.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
54	54	56

3. Percent of reduction in fatality rate on Tennessee roadways.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	2%	2%

### **Obstacles to Meeting Objectives and Delivering Services**

The increased complexity of environmental permits affects project development schedules.

There is lack of a document management system for processing bridge inspection reports in order

to provide more timely follow up on recommended maintenance actions.

There is an increase in system maintenance needs due to aging of transportation system infrastructure.

The increased use of technology in transportation system facilities requires greater resources and expertise to manage and maintain.

There are increased demands on the Interstate system in rural areas. The need for incident management assistance in rural areas is growing.

### **Means of Overcoming Obstacles**

Environmental planning and permitting processes are under review to identify improvement areas.

TDOT is concentrating on improving coordination with TDEC and other permitting agencies.

Bridge inspection personnel have a document management system project underway with a tentative completion date of 2004. This system will allow for much quicker processing of inspection reports.

A maintenance management information system is under development. This information system will provide comprehensive data to help assess system maintenance needs and provide information for most efficient allocation of resources to address those needs.

TDOT has prepared a draft strategic plan for highway incident management in Tennessee. This plan addresses both urban and rural needs.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or other non-state sources of revenue that fund this program. It is funded with 100% state funds.

### **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Monthly budget versus expenditure report is provided to each division director on a monthly basis for review.

### **Future Challenges and Opportunities**

Opportunities and challenges include managing increasing workloads with fewer resources and obtaining funding and operational equipment replacement for Incident Management operations and developing professional staff by providing educational opportunities. In the past several

years, it has been very difficult to provide access to available out-of-state classes, seminars and workshops due to travel restrictions. The Department addresses this to the extent possible by bringing courses into the State. Developing IT systems is one solution to offset limited or reduced resources. Examples include document management and the movement toward Internet bidding of contracts, along with maintaining adequate condition standards on an aging system with increases in infrastructure while revenue projections remain stagnant. The Department is encouraging project coordination, feedback and commitment from other TDOT Divisions, government agencies, and the general public.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All cost and expenditure data is recorded in the TDOT STARS accounting system.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **405.00 Bureau of Environment and Planning**

This bureau provides funding for the planning and environmental activities of the Department. Functions include Strategic Planning, Environmental Compliance, Environmental Planning and Permitting, Transportation Planning, Mapping and Statistics, Functional Design, Public Transit, Waterways, and Rail and Railroad Safety.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

The Office of Strategic Planning manages the Department's strategic planning process and other department-wide policy and management initiatives. TCA 9-4-56 sets forth the guidelines executed in the Strategic Plan which identifies the Department's mission, values, vision and organizational structure and sets the Department's goals, objectives, strategies and performance measures. The office works with all units of the Department to promote and coordinate strategic

planning and decision making.

The Environmental Compliance Office is tasked with the responsibility of ensuring that the Department's facilities comply with current environmental regulations. In addition, the office responds to the Department's needs for investigating and, when necessary, remediating past disposal and spill sites by providing technical expertise and oversight. It provides these services through the Resource Conservation and Recovery Act (RCRA), Clean Water Act (CWA), National Pollutant Discharge Elimination System (NPDES), Emergency Planning Community Right-to-Know Act (EPCRA), Toxic Substance Control Act (TSCA), Comprehensive Environmental Recovery and Compensation Liability Act (CERCLA), and the Petroleum Underground Storage Tank Act.

The Environmental Planning & Permitting Division office provides for the performance of environmental monitoring, analysis, and preparation of reports on the environmental effects of transportation projects. It also handles inter-agency and public participation in transportation project planning. The Division has three section offices.

The Environmental Technical Studies Section is responsible for the identification, documentation, avoidance and mitigation of potential impacts of transportation facilities on streams, wetlands and other ecological and water resources, historical and archaeological resources, air quality, and noise.

The Environmental Impact Section is responsible for the preparation of the environmental documents required for the Federal-Aid highway development process, as well as state funded projects. This section compiles and collates information on 22 social, economic and environmental issues for each highway project. This information includes a discussion of the purpose and need, social and economic structure of the affected community, land use, farm land, energy, conservation, floodplains, hazardous waste, visual concerns and construction impacts.

The staff in the Environmental Permits Office is responsible, on a statewide basis, for conducting permit reviews, preparing mitigation plans and applications for permits, coordinating with state and federal regulatory agencies, acquiring and distributing environmental permits needed by the Department, and monitoring mitigation sites. Permits for impacts to wetlands, streams and rivers must be obtained from federal and/or state environmental agencies, including primarily the U.S. Army Corps of Engineers, the Tennessee Department of Environment and Conservation, and the Tennessee Valley Authority. The responsibility of this office also includes overseeing and applying for the National Pollutant Discharge Elimination System (NPDES) storm water permits from TDEC for all projects statewide that will disturb more than one acre of land during construction.

The Public Transportation, Waterways and Rail Division consists of three offices. The Public Transportation Office is responsible for the formulation and implementation of a modern mass transportation policy responsive to the needs of state and local governments and the citizens of Tennessee. This office also insures that mass transportation systems are properly integrated with other transportation modes to provide optimum mobility.

The Rail & Waterway Transportation Office administers a portion of the transportation equity fund. These funds are used for short line railroad projects in the state and for the funding of waterway and port projects. This office also administers federal grants provided by the Federal Railroad Administration and the Appalachian Regional Commission for assistance in rail and water projects. The "Operation Lifesaver" service, which is a nation-wide grade crossing safety

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service is also administered through the rail and water office.

The Railroad Safety Office was transferred to DOT from the Public Service Commission in FY 95-96. It is responsible for the safety and inspection of all railroads in Tennessee. A railroad inspection fee based on the ton-miles of freight provides the funding for this Office.

The Planning Division is responsible for directing the activities of the Offices of Mapping and Statistics, Transportation Planning, and Functional Design.

The Mapping & Statistics Office is responsible for the collection of current travel and transportation facility data, and determining of growth trends, assistance in local urban planning data analysis and plan development.

The Transportation Planning office is responsible for long range Transportation Planning Studies in rural areas and in cities under 5,000 population throughout the State and with coordinating the Urban Service for cities over 5,000 population. It is responsible for providing cost and other data required for the development of capital improvement services for the operating bureaus within the Department. The office is also responsible for preparing the Advance Planning Reports for all highway projects, furnishing priority and other data for railroad grade crossing improvements and preparing interchange and route justification studies.

The Functional Design Office conducts public meetings to acquire input from affected citizens and disseminate information on proposed highway design and location.

## **Performance Standards**

1. To improve transportation safety by increasing the number of railroad inspections to 750.
2. Completion of the 25-year statewide multimodal transportation plan.

## **Performance Measures**

1. Total number of railroad inspections completed.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	725	750

2. Completion of the 25-year statewide multimodal transportation plan, which will include the development of performance measures for the statewide transportation system.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
0%	20%	70%

## **Obstacles to Meeting Objectives and Delivering Services**

The increase in the number of licensed drivers (27%) and vehicle miles traveled (41%) over the last decade has produced ever increasing demands on the transportation system; urban centers require new services due to congestion. Freight demands on the system are also increasing and

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are expected to continue growing due to Tennessee's vast interstate network.

Increasingly complex environmental laws and regulations require more time, expertise and resources to incorporate into transportation planning, development, and implementation processes and procedures. Recent air quality standard changes will require a higher degree of analysis to assist rural parts of the state that have not been affected previously.

Increasing complexity of developing the links from the Department's strategic plan to the budget, information technology plan, workforce planning and the long-range multi-modal plan affect the capacity of the Department.

### **Means of Overcoming Obstacles**

The Department is issuing a request for proposal to obtain consulting services for the development of a comprehensive 25-year multi-modal transportation plan and planning process. This will enable the Department to have the data and analysis capability to identify where transportation investments need to be made to better meet the increasing transportation needs of the state.

The Department recently reorganized to combine the environment and planning functions internally to provide more focus and resources to the environmental area. Additional changes for improvement are under review.

The Department's Strategic Planning Office is currently working to implement a revised strategic planning process that better links the information system plan, the budget process, and the long range multimodal planning process.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or other non-state sources of revenue that fund this program. It is funded with 100% state funds.

### **Means of Avoiding Unnecessary Costs and Expenditures**

This program is subject to audit by TDOT Internal Audit and the Comptroller's Office. Monthly budget versus expenditure report is provided to each division director on a monthly basis for review.

### **Future Challenges and Opportunities**

TDOT intends to focus on the importance of including customers in the planning process, while balancing economic initiatives and environmental preservation in transportation decisions. TDOT wants to adequately address increasing traffic and freight transport demands within Tennessee. TDOT will address changing federal mandates, which are placing greater demands on the planning processes and requiring the Department to be flexible enough to respond to these changes. For example, recent federal air quality standards which will require a higher degree of

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transportation analysis in rural parts of the state. It is the Department's intention to educate public officials and the general public about the benefits of various modes of public transit and about the financial and environmental costs of increased use of private autos. TDOT will pursue issues and developments, which were identified in the State Rail Plan. Specifically, rail passenger opportunities and the East/West Bristol to Memphis rail connection offering the opportunity to divert freight from I-40/I-81 preserving roadway capacity. It is a current challenge to establish performance measures throughout the Department.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All audits and legal proceedings are on file in their respective offices in this division. Cost and expenditure data is recorded in the TDOT STARS accounting system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **412.00 Field Engineering**

This code provides funds for the administrative costs and salaries of engineering and administrative personnel in each of the four regional offices, and engineering personnel in each of the 22 district locations throughout the state.

These field personnel are responsible for the preliminary engineering, utility relocation, construction and maintenance areas, which are under the statewide system of highways. Major areas of operational responsibilities include bridge maintenance, construction, intelligent transportation systems, materials testing and traffic engineering.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

This program is the means to direct TDOT operations throughout its four geographical regions.

Bridge Inspection & Repair services provide inspection units tasked with making bi-annual federally mandated inspections and reports on all bridges on public roadways. The Repair units are tasked with repairing and maintaining all State-owned bridges. This service also provides supplemental evaluations, vertical clearances and weight posting to various state, city, and county highway departments.

Construction oversees the construction of the majority of Interstate and State Highway road construction projects. It is responsible for the oversight or performance of survey, construction, or inspection of a roadway, bridge, or other transportation structures.

ITS (Intelligent Transportation Systems) is the use of technology to move traffic more efficiently without the addition of new traffic lanes by addressing incidents that affect the capacity of the transportation system. The Department is using ITS components such as cameras and speed detection devices to allow quick detection, confirmation, and appropriate response to highway incidents. The Departments' Highway Incident Management "HELP" units are dispatched and other emergency responders (fire, police, ambulance, etc.) are notified and given as much detail about the incident as possible to aid in quick clearance. Changeable message boards and Internet links to roadway cameras allow the public to adjust their travel plans to minimize the impact of incidents and reduce travel delays.

Maintenance is charged with the maintenance responsibility of state highway roads. District offices and their associated county facilities plus a floating heavy maintenance office perform day to day general maintenance activities on these roads including: snow and ice removal, litter pickup, spot patching, continuous premix patching, grading shoulders, cleaning ditches, culverts and catch basins, slope mowing, chemical control of vegetation, brush cutting, roadside cleanup, maintenance to roadside parks and rest areas, fence repair, roadway sweeping, removal and disposal of dead animals, bridge cleaning and repair, provide traffic control for accidents, cleanup of accident sites, manage grading performed by private parties on State of Tennessee right-of-way. Additionally, the maintenance section manages the following offices on a regional level: Highway Beautification: Enforcing the rules and regulations of outdoor advertising, as well as identifying and addressing junkyard law violations on and adjacent to state routes; State Aid: Coordinating the disbursement of funds to the county maintained State Aid Highway System and working with the Federal Emergency Management Agency (FEMA) during disasters through the State Aid Section; Horticulturist: Coordinating the vegetation growth and containment via mowing, spraying, planting or removal on state highway roads in addition to managing the Tennessee wildflower service in the region; Floating Maintenance: Sinkhole and slide repair, roadway reconstruction, construction of turning lanes, parking lots, roadway shoulders, and acceleration/deceleration lanes, snow and ice removal; Garages: Maintaining equipment for the Tennessee Department of Transportation and several other divisions within Tennessee government. Collecting and documenting different forms of hazardous and special waste; Highway Incident Management: Minimizing traffic congestion, assisting law enforcement by providing traffic control at accident sites, and assisting disabled motorist.

Materials & Tests service is responsible for acceptance, verification, assurance sampling and testing of materials used on State and Federal aide projects. The office ensures that materials used on departmental projects meet the appropriate American Society for Testing & Materials, American Association of State Highway and Transportation Officials or departmental specifications. Material tests include asphalt, concrete, friction (skid resistance), rideability, soils, aggregate, reinforcing steel, guardrail, signs, grass seed, pre-stress materials, pre-cast materials, pipe culvert, fence, and pavement marking.

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Traffic Engineering performs traffic studies for appropriate traffic control devices such as traffic signals, flashing beacons, signing and pavement markings. This service issues commercial driveway permits and grading permits and develops safety projects, partially funded through the Department's Optional Safety Program, which assists cities and counties in safety improvements on State Highways.

### **Performance Standards**

1. All transportation construction projects opened to traffic on schedule.

### **Performance Measures**

1. Percentage of construction projects opened to traffic on schedule.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	92%	95%

### **Obstacles to Meeting Objectives and Delivering Services**

Increased growth in urban areas has increased traffic congestion problems, especially in peak hours.

There are increased demands on the highway system due to increased freight movement and number of drivers. Construction and maintenance work to enhance and preserve the system may increase travel times for users of the system. Length of delays relate directly to increase in volume of traffic.

### **Means of Overcoming Obstacles**

Technology advances have helped in the delivery of services as can be seen through the HELP (Interstate assistance patrols) service and through the use of ITS (Intelligent Transportation Systems) technology. These will continue to be used and expanded to alleviate congestion from incidents and provide travelers with information needed to take alternate routes so that they may avoid delays through work zones.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or other non-state sources of revenue that fund this program. It is funded with 100% state funds.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office. TDOT's Internal Audit division audits this program's regional and district offices in order to determine if activities are conducted according to set procedures.

## **Future Challenges and Opportunities**

Future challenges include maintaining an experienced quality workforce to ensure that TDOT's infrastructure is not compromised; addressing traffic congestion in urban areas; meeting departmental goals with limited funding; maintaining construction project inspection expertise due to retirements and loss of experienced personnel to the private sector; and upgrading field positions and supervisors to accommodate trends toward contract administration and technological advances made necessary in part due to workforce reductions in these areas.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

Projects and activities are recorded in the TDOT accounting system, the Construction Management System (CMS) and the Program Project Resource Management System (PPRM).

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **416.00 Mass Transit**

This code provides funding for Mass Transit projects including the federally funded job access program, and insures that mass transportation systems are properly integrated with other transportation systems to provide optimum mobility.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

23USCA 142 authorizes the Department to receive federal funds for a Public Transportation

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Program.

49USCA 53 authorizes federal surface transportation program for mass transit.

### **Mandated and Optional Services and Means of Providing Them**

Per 23USCA 302 the use of this Federal Program is optional. 23USCA 302 basically states that if the Department desires to avail itself of the provisions of this title the Department will have adequate powers, and be suitably equipped and organized to discharge the satisfaction of the Secretary the duties required by this title.

The funds authorized under 23USCA 142 and 49USCA 53 are to encourage the development, improvement and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers so as to increase the traffic capacity of the Federal-aid systems for the movement of persons. Services provided include transit technical assistance, transit grant administration and state matching funds for federal grants, new transit system start-ups, transit marketing assistance, the Tennessee Transit Training Center and the transit student internship service. Mandatory services required by the Federal Transit Administration (FTA) authorized under 49USCA 53 include a triennial review of the Office of Public Transportation, state management oversight review, transit alcohol/drug testing service, transit procurement system review, transit financial management review, and annual Safety and Security certifications of fixed-gateway transit systems (e.g., Memphis Light Rail). These services are delivered through the state, federal and local funding budgeted in this program area. They are delivered by state employees and some consultant work. This program is administered through the Bureau of Environment and Planning.

### **Performance Standards**

1. Increase transit ridership by 1.5 % each year to reduce urban congestion, and increase air quality and accessibility.

### **Performance Measures**

1. Percentage increase in transit ridership.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	1.5%	1.5%

### **Obstacles to Meeting Objectives and Delivering Services**

Allocating scarce resources to the ever-multiplying transit needs in the state is difficult.

## **Means of Overcoming Obstacles**

The Department has increased the state funds to this program, but needs still are greater than available funds. The recent completion of the 25-year Transit Plan should serve as a guide in planning and possibly allocating transit program funds. Greater use of flexible transportation funds is another option.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are apportioned according to each federal program. Many of these program distributions favor states with large mass transit needs (New York, California). Tennessee, because it is a rural state receives fewer funds by statutory distribution and must rely on its ability to petition for discretionary federal funds. If the federal reauthorization act increased total funding for mass transit, then Tennessee will receive more dollars. This program has historically matched all federal funds received and adds additional 100% state funding into this program. Local funds match a small percentage of transit services and are a potential source to meet transit needs.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT's Internal Audit Division. Furthermore, this program is subject to grants review by the Department of Finance and Administration's Sub-recipient Monitoring division. There are also mandatory reviews conducted by the Federal Transit Administration (FTA).

## **Future Challenges and Opportunities**

Future challenges in Mass Transit include increasing the level of state/federal/local funding for public transit in Tennessee; educating public officials and the general public about the benefits of various modes of public transit and about the financial and environmental costs of increased use of private automobiles; and improving the condition and upgrading the technology of transit vehicles and the quality/frequency of transit service in Tennessee.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All transit projects are recorded and monitored on the DOT STARS accounting system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and

limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **418.00 Field Construction**

Payroll for all construction units within each of the four regions is paid through this code. The costs are reallocated to the actual projects worked on.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

This code functions as a cost center and not as a service program. Labor costs budgeted in this code are charged to projects worked on in the various construction programs. These services are delivered through the Interstate, Forest Highway, State Highway Construction and Bridge programs.

## **Performance Standards**

1. Reallocate 100% of construction payroll costs to projects.

## **Performance Measures**

1. Percentage of payroll costs reallocated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

There are no obstacles to meeting objectives and delivering services.

## **Means of Overcoming Obstacles**

There are no obstacles to meeting objectives and delivering services.



## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Proper reallocation of costs will ensure maximization of federal revenue.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This service was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT's Internal Audit Division.

## **Future Challenges and Opportunities**

Future challenges include maintaining an experienced quality workforce to ensure that TDOT's infrastructure is not compromised.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All activities are recorded and monitored on the DOT STARS accounting system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **419.00 Field Maintenance Operations**

Payroll for all highway maintenance and marking units within each of the four regions are paid through this code. The costs are reallocated to the actual projects worked on.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

This code functions as a cost center and not as a service program. Labor costs budgeted in this code are charged to projects worked on in the various construction programs. These services are delivered through the Highway Maintenance program.

### **Performance Standards**

1. Reallocate 100% of maintenance payroll costs to projects.

### **Performance Measures**

1. Percentage of payroll costs reallocated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

There are no obstacles to meeting objectives and delivering services.

### **Means of Overcoming Obstacles**

There are no obstacles to meeting objectives and delivering services.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Proper reallocation of costs will ensure maximization of federal revenue.

### **Means of Avoiding Unnecessary Costs and Expenditures**

This service was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT's Internal Audit Division.

### **Future Challenges and Opportunities**

Future challenges include maintaining an experienced quality workforce to ensure that TDOT's infrastructure is not compromised.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All activities are recorded and monitored on the DOT STARS accounting system.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **430.00 Equipment Purchases and Operations**

This code provides funds for the administrative costs of the regional and district garages, which provide proper mobile equipment maintenance. Inventory and equipment costs are reallocated to other codes based on actual usage. This code also provides funds to replace presently owned mobile equipment on the basis of expiration of the useful life of each vehicle and for the purchase of additional equipment to meet new service and maintenance responsibilities.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

This program code provides for the acquisition of mobile equipment, consumable inventory items and fixed assets to complement the agency’s objectives. It provides for maintenance and repair of equipment to complement the agency objectives. Most services are provided by state employees through TDOT statewide garage system. Selected services provided by outside vendors include, but not limited to, front-end alignment and major repairs.

## **Performance Standards**

1. The mechanic efficiency rating will be at least 80%.

## **Performance Measures**

1. The percentage of total mechanic available work hours spent on maintaining, servicing or repairing all vehicles in the state system.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	80%	80%

Note: The efficiency rating is calculated from the total number of mechanic positions (both filled and vacant) multiplied by the available work hours per position versus the number of actual hours billed on vehicle work orders.

## **Obstacles to Meeting Objectives and Delivering Services**

Obstacles include the inability to meet equipment replacement schedules and increasing difficulty to retain skilled equipment maintenance personnel, particularly in the urban areas.

## **Means of Overcoming Obstacles**

The Department has increased equipment replacement criteria because of limited funding. Repairs and certain maintenance activities have been outsourced. To get as much value with the least maintenance cost as possible, the Department implemented a Buyback Program. The Department purchases tractors from an outside vendor, and the vendor buys the tractor back after one year at a pre-determined price.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or non-state revenues in 430.00.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Unnecessary costs are avoided by preventative maintenance schedules, personnel training, equipment buy-back program and through an annual audit of equipment and inventory that is performed by the Cost Accounting Section located in the Finance Office. The last inventory was conducted in FY 2002-2003. This program was also audited for the year ending June 30, 2002 by the Comptroller's Office.

## **Future Challenges and Opportunities**

It will be a challenge to retain and train skilled personnel and maintain an adequate fleet of equipment to meet statewide transportation needs.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

TDOT Human Relations verify the number of authorized positions. Total hours available is a standard developed by TDOT Finance. The Equipment Management Director and Regional Directors review hours charged on garage work orders.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **440.00 Planning and Research**

This code provides funds for most of the costs expended by the Planning and Research Office. Costs that are chargeable to this code are primarily those that are connected with studies and surveys for transportation planning.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

23USCA 505 authorizes the Department to receive federal funds for a state planning and research service.

## **Mandated and Optional Services and Means of Providing Them**

Per 23USCA 302 the use of this Federal Program is optional. 23USCA 302 basically states that if the Department desires to avail itself of the provisions of this title the Department will have adequate powers, and be suitably equipped and organized to discharge the satisfaction of the Secretary the duties required by this title.

The funds authorized under 23USCA 505 are available for expenditure by the State, in consultation with the Secretary only for the following purposes:

Engineering and economic surveys and investigations.  
The planning of future highway services and local public transportation systems and the planning of the financing of such services and systems, including metropolitan and

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statewide planning under sections 134 and 135.

Development and implementation of management systems under section 303.

Studies of the economy, safety, and convenience of surface transportation systems and the desirable regulation and equitable taxation of such system.

Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems.

Study, research, and training on the engineering standards and construction materials for transportation systems including the evaluation and accreditation of inspection and testing and the regulation and taxation of their use.

Additional services include technical assistance to local jurisdictions through the University of Tennessee Transportation Research Center; public outreach meetings and presentations on planned projects and project studies; technical assistance to metropolitan planning organizations (MPOs); traffic forecasting and computer travel modeling for rural, small urban and urbanized areas within Tennessee; traffic safety analysis and speed statistic analysis; traffic forecasts and turning movement counts; construction cost estimating; and project development – preparing project location studies, functional plans, cost estimates, holding public meetings and provide technical assistance to Environmental Planning and Permits, Design, and Structures Divisions during the course of project development process. These services are delivered through the federal and state matching funds budgeted in this service. They are also delivered with consultants and state employees. This service is administered through the Planning Division located in the Bureau of Environment and Planning.

### **Performance Standards**

1. Obligate 100% of available Federal highway funds. If all federal funds are not obligated within three years, the remaining funds revert to the federal government for redistribution to other state departments of transportation.

### **Performance Measures**

1. Percentage of available federal highway funds obligated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

Limited staff is available to provide these services. Changing federal mandates, which are placing greater demands on the planning processes and requiring the Department to be flexible enough to respond to these changes. For example, recent federal air quality standards which will require a higher degree of transportation conformity analysis in rural parts of the state.

## **Means of Overcoming Obstacles**

There is a possible increase of federal funding through the Federal Aid Highway Act reauthorization process beginning in October 2003.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are provided to Tennessee on an 80% federal and 20% state matching basis. TDOT has made a priority of fully matching federal funds. There is a three-year time limit for obligating these federal funds. There are no non-state sources of revenue in this program.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Furthermore, the Federal Highway Administration must approve the annual work program proposal.

## **Future Challenges and Opportunities**

The undertaking of the development of a statewide multimodal transportation plan and implementing the recommendation of the planning assessment project will be a challenge. Building public confidence, consensus, and support in a fact-based transportation decision-making process and balancing economic initiatives and environmental preservation in transportation decisions.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All projects in this program are recorded and monitored in the DOT STARS accounting system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **451.00 Highway Maintenance**

Routine maintenance, marking and resurfacing of state highways is performed by departmental personnel assigned to district and regional locations throughout the state and through let contracts. The largest elements of costs chargeable to this code are salaries, equipment usage and materials. This is the mechanism whereby the State's large investment in the highway system is protected. The Department also provides funding for the maintenance of designated state park roads. This code also funds the Bridge Repair service.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

TCA 54-17-201 establishes the Tennessee Parkway System Act, which directs the Commissioner to designate and erect suitable markers for the Tennessee Parkway System.

TCA 54-20-101 establishes the Junkyard Control act of 1967, which empowers the Commissioner to screen junkyards within 1000 feet of the nearest right-of-way on the interstate or primary system highways.

TCA 54-21-101 establishes the Billboard Regulation and Control Act of 1972, which authorizes restrictions on outdoor advertising on interstate and primary highways.

TCA 67-4-402 mandates four-tenths of one percent of the gross receipts of soft drink manufacturers shall be allocated to the highway fund for the purpose of funding services for the prevention and collection of litter and trash. Funds are distributed to each of Tennessee's 95 counties to be used for trash pick-up primarily along county highways.

TCA 57-5-201 mandates fifty cents per barrel shall be allocated to the highway fund for the purpose of funding services for the prevention and collection of litter and trash. Funds are distributed to each of Tennessee's 95 counties to be used for trash pick-up primarily along county highways.

TCA 54-5-108, 54-5-1001, 54-5-708, 54-5-705, 54-5-706, 55-8-153 mandates the review of legislative and interstate signage and speed limit requests.

TCA 54-5-601 mandates traffic signal warrant/design review and authorization.

TCA 41-2-123 sets forth guidelines in Litter Grant Service for fund distribution to each of Tennessee's 95 counties to be used for trash pick-up primarily along county highways.

TCA 54-5-1203 and TCA 54-1-125 sets forth guidelines in the Wildflower service for funds utilized in the area of planting wildflowers on Tennessee interstates.

Governor Executive Order 15 provides for Emergency Services for TEMA support.

TCA 54-4-1204 and TCA 54-5-133 establish Landscaping and Vegetation Management.



TCA 54-5-1301 sets forth the guidelines for Tourist Oriented Directional Signs funding used to erect tourist oriented directional signs.

TCA 54-5-1101 sets forth the guidelines for LOGO sign service funding used to erect gas, food and lodging signs on Tennessee interstates.

TCA 54-1-126 charges TDOT with the responsibility for maintenance of public roads, streets, highways or bridges.

## **Mandated and Optional Services and Means of Providing Them**

Under TCA 54-17, the Commissioner is directed to designate and erect suitable markers for the Tennessee Parkway System. TCA 54-20 empowers the Commissioner to screen junkyards within 1,000 feet of the nearest right-of-way on the interstate or primary system highways. TCA 54-21 authorizes restrictions on outdoor advertising on interstate and primary highways. TDOT is assigned the mandatory responsibility to enforce this provision. Litter Grants are administered through this program under the authority of TCA 67-4-402 and TCA 57-5-201. These funds are distributed to each of Tennessee's 95 counties to be used for trash pick-up primarily along county highways.

Primary services funded here include routine maintenance of state highways, which provides a means for snow and ice removal, pothole patching, mowing, signing and marking and the like. It also includes funding for contract maintenance for local government contracts. State funds for bridge repair are also included. Other maintenance activities include those under the Beautification service including wildflowers and junkyard control.

The Incident Management service (HELP) is funded under this category. This service provides assistance to stranded motorists, accident sites, supports all highway emergency responders and serves to reduce highway congestion.

This wide range of services are performed with state TDOT employees and the use of consultant contracts. The administration of these services are accomplished through the Maintenance Division located in code 403.00, Bureau of Engineering and in the regions through code 412.00, Field Engineering.

## **Performance Standards**

1. TDOT's Maintenance Rating Index related to maintaining roadways will be equal to or greater than 75.

## **Performance Measures**

1. The condition level for the state system of roads.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	75	75

## **Obstacles to Meeting Objectives and Delivering Services**

Increasing range of services must be provided to operate the highway system efficiently and effectively. Services, such as the HELP program, that reduce congestion through quick response to highway incidents are being requested beyond the urban areas.

Increasing system maintenance needs is due to aging of main highway infrastructure as well as cost of maintaining new lane miles as they are added to increase system capacity. More sophisticated transportation facilities, such as those with Intelligent Transportation System components, require more expertise and resources to maintain.

## **Means of Overcoming Obstacles**

A maintenance management information system is under development. This information system will provide comprehensive data to help assess system maintenance needs and provide information for most efficient allocation of resources to address those needs.

The Department has prepared a draft strategic plan for highway incident management in Tennessee. This plan will address both urban and rural needs.

With revenues not increasing consistently with system growth and needs, the Department is evaluating new products and concepts such as high performance materials, warranties, multi-year contracts and technology for economic benefits.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal funds in this program. All state dollars are used to fund the activities in this program.

## **Means of Avoiding Unnecessary Costs and Expenditures**

The Maintenance Rating Index (MRI) has been developed to identify elements of maintenance, and to effectively allocate the limited resources. Also this program was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT Internal Audit.

## **Future Challenges and Opportunities**

Challenges/opportunities include developing a Maintenance Management System that will be used and supported by management and field units to prioritize resources for maintenance activities and maintaining adequate levels of service on an aging system with increases in infrastructure while revenue projections remain stagnant. TDOT is hopeful that it might be able to upgrading field positions and supervisors to accommodate trends toward contract administration and technological advances due in part to increased outsourcing.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

Accomplishments of this program will be tracked in the Maintenance Management System (MMS). Productivity and cost comparisons will be included in MMS.

All expenditure information is recorded and tracked in the DOT STARS accounting system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **453.00 Highway Betterments**

This program provides for those improvements of the state highways that are not classified as construction or reconstruction by the Federal Highway Administration. These improvements include minor resurfacing, bridge widening, curve flattening, truck climbing lanes and other means to improve capacity and increase safety.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

## **Mandated and Optional Services and Means of Providing Them**

These services provide a means of funding those areas of importance that come up from time to time outside of a structured budget environment. These services give the Commissioner the flexibility to remedy situations that require capacity and safety improvements to highways in a timely fashion. Services are provided through contractual agreements with private contractors and state forces.

## **Performance Standards**

1. TDOT's Maintenance Rating Index related to improving capacity and increasing safety will be equal to or greater than 75.

## **Performance Measures**

1. The condition level for the state system of roads.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	75	75

## **Obstacles to Meeting Objectives and Delivering Services**

Limited resources may prevent some projects from being addressed when necessary.

## **Means of Overcoming Obstacles**

TDOT will attempt to redirect projects eligible for funding to other 100% state funded services in the Department.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal funds and a minimum of local funds available for this service's activities.

## **Means of Avoiding Unnecessary Costs and Expenditures**

Monthly status reports are run for all projects and provided to the managers responsible for service activities. Also, this program was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT Internal Audit.

## **Future Challenges and Opportunities**

A challenge will be maintaining a consistent level of funding for future years.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

Project status is recorded in the DOT STARS accounting system and in the PPRM for contracted projects.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and

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limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **455.00 State Aid**

The State Aid highway system was established by the General Assembly in 1983 and consists of approximately 12,000 miles of highway. The State provides 75% of the funding; the counties provide 25%. Funds are allocated to local agencies 50% equally, 25% based on population, and 25% based on area. These funds are used for paving roads on the State Aid system.

This code also funds the Bridge Grant Service, which is currently funded with 70% state funds and 30% local funds.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

TCA 54-4-401 mandates that the Commission of Transportation, after consultation with local officials, shall select and designate which highways are to be included in this system. TCA 54-4-404 sets forth the formula for fund distribution to each county.

TCA 54-4-501 establishes the bridge grant service for local off-system bridges. The bridge grant service is mandated to enable local governments to replace/rehabilitate certain bridges within their respective jurisdictions.

## **Mandated and Optional Services and Means of Providing Them**

The state-aid services mandates that the Commission of Transportation after consultation with local officials shall select and designate which highways are to be included in this system. After system designation, local authorities (counties) are to submit annual work programs to the Department. TCA 54-4-404 sets forth the formula for fund distribution to each county.

Services are supplied upon requests of local officials and agreement by the Department. Construction contracts are awarded by the local agency with the Department’s approval in accordance with TCA 54-4-405.

The bridge grant service is mandated to enable local governments to replace/rehabilitate certain bridges within their respective jurisdictions. This selection process is developed by the Department and based on biannual bridge inspections. The basis of funds distribution is in accordance with the provisions of the general appropriations act, TCA 54-4-505.

Services are provided upon application from the local government to the Commissioner of Transportation.

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## **Performance Standards**

1. Provide for the total distribution of funds to both the State-Aid and Bridge Grant services as directed by statute, which is dependent on counties providing matching funds.

## **Performance Measures**

1. Percentage of appropriated funds allotted to counties.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

Reduction in service size and funds available for these two services will affect the planned objectives. Inability of local governments to match state funds will hamper delivery efforts. Locals must make timely application to TDOT for desired project work.

## **Means of Overcoming Obstacles**

Educate local authorities on the importance of planning in advance for eligible local roads or bridges to be scheduled for construction or repair.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal funds associated with this program. Local authorities are allowed to provide their share of matching requirements as in-kind work rather than a hard match.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Counties are subject to audit by the state Comptroller's office.

## **Future Challenges and Opportunities**

With limited funds and scarce resources, it will be a challenge for TDOT to maintain these two local services at a constant level of funding in future years.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

Official distribution letters are prepared on July 1 of each year.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **470.00 State Industrial Access**

The Industrial Highway Act of 1959 authorized the Bureau of Highways to contract with cities and counties for the construction and maintenance of industrial highways to provide access to industrial areas and to facilitate the development and expansion of industry within the state.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

TCA 54-5-401 establishes the Industrial Highway Act which funds provide access to industrial areas.

## **Mandated and Optional Services and Means of Providing Them**

This program is authorized in order to facilitate the development and expansion of industry and to provide access to industrial areas.

Services are provided through agreements with TDOT and municipalities as to the funding and need. Funds authorized to be used are those highway funds not specifically allotted by legislative action to other categories of highway construction and maintenance.

## **Performance Standards**

1. To process and begin work on all projects with a state and local agreement in the current fiscal year, within funding limitations. These projects provide access to industrial areas and facilitate the development and expansion of industry within the state.

## **Performance Measures**

1. Number of Industrial Access projects advanced to construction in the current fiscal year.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
10	12	14

## **Obstacles to Meeting Objectives and Delivering Services**

Limited resources in this program may prevent projects from being developed. Locals must make timely application for projects.

## **Means of Overcoming Obstacles**

Coordination between municipalities and TDOT on project development will help in overcoming the listed obstacles.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or other non-state sources of revenue to fund this program's activities.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Management of projects through the Project Management Division is also utilized as well as use of single point of contact and project management procedures.

## **Future Challenges and Opportunities**

A challenge is maintaining a consistent level of funding for future years.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

Projects are recorded on the DOT accounting system and in the PPRM system in the Program

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Development and Project Management Division.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **472.00 Interstate Construction**

The Federal-Aid Interstate Highway Program was started in 1957 and is now a part of the National Highway System under the Transportation Equity Act for the 21st Century. Tennessee presently has 1,073 miles completed and open to traffic. The Federal Government reimburses the State for 90% of eligible costs subject to the amounts apportioned and made available to the State. Tennessee receives funds for maintenance including resurfacing, restoration, rehabilitation and reconstruction.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

23USCA 103(c) authorizes the Department to receive federal funds for the construction of highways on the Interstate System.

23USCA 119 authorizes the Department to receive federal funds for resurfacing, restoring, rehabilitating, and reconstruction of highways on the Interstate System.

## **Mandated and Optional Services and Means of Providing Them**

Per 23USCA 302, the use of this Federal Program is optional. 23USCA 302 basically states that if the Department desires to avail itself of the provisions of this title the Department will have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title.

The funds authorized under 23USCA 103(c) and 23USCA 119 fall under The Department of Transportation’s code 472.00 (Interstate). The 46,000 mile Dwight D. Eisenhower National System of Interstate and Defense Highways retains a separate identity within the National Highway System (NHS). To ensure the continued maintenance and improvement of this system, the Interstate Maintenance (IM) service is established in the new Highway Act. Funds are distributed based on each State’s lane-miles of Interstate routes open to traffic, vehicle-miles of Interstate routes open to traffic, vehicle-miles traveled on those Interstate routes, and contributions to the Highway Account of the Highway Trust Fund attributable to commercial vehicles. All remaining work to complete the Interstate System has been fully funded through previous highway legislation. TEA-21 Reauthorization provides flexibility to the States to fully

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utilize remaining unobligated balances of these prior Interstate Construction authorizations. States with no remaining work to complete the Interstate System may transfer surplus Interstate Construction funds to their NHS fund account. States with remaining completion work on Interstate gaps or open-to-traffic segments may relinquish Interstate Construction fund eligibility for the work and transfer the Federal share of the cost to their NHS program.

Consultants, contractors and TDOT personnel provide these optional services. TDOT personnel providing these services are funded in allotment codes 403.00, Bureau of Engineering and 405.00, Bureau of Environment and Planning and code 412.00, Field Engineering.

## Performance Standards

1. TDOT's Maintenance Rating Index will be equal to or greater than 75.
2. The sum of the deck area for those bridges not classified as structurally deficient or functionally obsolete will be 75% or greater of the total deck area for all bridges.

## Performance Measures

1. The condition level for the system of Interstate roads.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	75	75

2. Percentage of bridge deck area on Interstate roads that is not structurally deficient or functionally obsolete.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
80.6%	81.5%	82.3%

## Obstacles to Meeting Objectives and Delivering Services

Increasing demand on the current interstate system is an obstacle. Tennessee has a vast interstate network system that has an increasing volume of traffic; freight movement issues are of prime concern. As demands grow, ability to fully match the annual federal apportionment could become difficult.

## Means of Overcoming Obstacles

Use of the 25-year long-range transportation plan may help in setting priorities for the various program funding levels. User tax increases would generate new revenues to be used for matching purposes.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are apportioned on a 90% federal and 10% state matching basis. TDOT has made a priority of fully matching all available federal funds. Under the current federal highway authorization (TEA21, Transportation Equity Act, Public Law 105-178) the Department has up to four years to obligate funds to a project.

Under Title 23, TDOT applies annually for FHWA discretionary funds. TDOT also applies for those prior year state-shared funds that were previously distributed but not used by other states.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. The Federal Highway Administration must approve the annual work program proposal. Also, the Tennessee Office of the Federal Highway Administration (FHWA) prior to the contract stage must approve all projects.

## **Future Challenges and Opportunities**

Future challenges in Interstate include constructing projects that protect and preserve the environment within the funding limitations of this program; informing the public of construction delays and alternate routes to reduce congestion; improving work zone safety; and maintaining construction engineering and project inspection expertise in the workforce.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All projects in this program are recorded and maintained on the DOT STARS accounting system and the PPRM system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **475.00 Forest Highways**

Funding for this program is now included in the Federal Lands Program and is based on an allocation method using values based on relative transportation needs of resource outputs and backlog of forest highway improvements of national forests in Tennessee. The construction of these highways is determined by taking into consideration the existing transportation facilities, value of timber and difficulties of construction. Also included in this funding code is federal funding for the Foothills Parkway.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

23USCA 204 authorizes the Department to receive federal funds for the development of highways that meet the criteria of the Federal Lands Highways Program

23USCA 205 authorizes the Department to receive federal funds for forest development roads and trails.

### **Mandated and Optional Services and Means of Providing Them**

Per 23USCA 302, the use of these Federal Programs is optional. 23USCA 302 basically states that if the Department desires to avail itself of the provisions of this title the Department will have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title.

The funds authorized under 23USCA 204 and 23USCA 205 are available for expenditure by the State, and are known as The Federal Lands Highways (FLH) Program. Federal funding is provided for Park Roads and Parkways, and Public Lands Highways (discretionary and Forest Highways).

Consultants, contractors and TDOT personnel provide these optional services. TDOT personnel providing these services are funded in allotment codes 403.00, Bureau of Engineering and 405.00, Bureau of Environment and Planning and code 412.00, Field Engineering.

### **Performance Standards**

1. Obligate 100% of available Federal highway funds. If all federal funds are not obligated within three years, the remaining funds revert to the federal government for redistribution to other state departments of transportation.

### **Performance Measures**

1. Percentage of available federal highway funds obligated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

### **Obstacles to Meeting Objectives and Delivering Services**

TDOT fully obligates 100% of its federal and state match monies on projects eligible in this program. There are no significant obstacles to overcome in this program.

### **Means of Overcoming Obstacles**

There are no significant obstacles to overcome in this program.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are apportioned on an 80% federal and 20% state matching basis for state selected projects. TDOT fully matches all available federal funds. Under the current federal highway authorization (TEA21, Transportation Equity Act, Public Law 105-178) the Department has up to four years to obligate funds to a project.

Under Title 23, TDOT applies annually for FHWA discretionary funds. TDOT also applies for those prior year state-shared funds that were previously distributed but not used by other states.

### **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Furthermore, the Federal Highway Administration must approve the annual work program proposal.

### **Future Challenges and Opportunities**

Construction of projects that protect and preserve the environment within the funding limitations of this program and maintaining construction engineering and project inspection expertise in the workforce will be a challenge to the Forest Highway service.

### **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

### **Data Verification**

All projects in this program are recorded and maintained on the DOT STARS accounting system.

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TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **478.00 Local Interstate Connectors**

The General Assembly in 1965 authorized the Bureau of Highways to construct connector routes to the interstate system from existing parallel arterial routes to be financed with 50% state funds and the remainder from county and city sources. These roads are not a part of the State Highway System.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

TCA 54-5-501 establishes the Local Interstate and Fully Controlled Access Highway Connector Act. These funds provide roads between an interstate highway and a populous locality.

### **Mandated and Optional Services and Means of Providing Them**

In order for the citizens of Tennessee to get the greatest possible use from the interstate highway system, the Department is authorized to use any powers granted under any general law to establish a system of connectors so located and spaced as to furnish adequate access to the interstate highway system from the existing road and street networks along the interstate system.

### **Performance Standards**

1. To obligate all Local Interstate Connectors funds in the current fiscal year within funding limitations dependent on city and county governments providing matching funds.

### **Performance Measures**

1. Percentage of current fiscal year Local Interstate Connectors funds obligated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

Funding resources are limited to \$1.475 million per year, state and \$1.475 million per year, local match. Locals must strictly adhere to the state-local agreements provision of TCA 54-5-507.

## **Means of Overcoming Obstacles**

This obstacle can be overcome with constant coordination and communication with local agencies.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

No federal funds are used in this program. Local funds are required at a 50/50 matching ratio.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is also subject to audit by TDOT Internal Audit. Furthermore, compliance with TCA 54-4-507 will ensure appropriate and efficient use of state and local funds.

## **Future Challenges and Opportunities**

A challenge is continuing to meet Local Interstate Connector needs on a total state/local budget of \$2,950,000 per year.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

Projects are developed and tracked on the Program Project Resource Management System (PPRM) by the Program Development and Project Management Division. All project expenditures are recorded in the TDOT accounting system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **480.00 State Highway Construction**

This program was enacted by the General Assembly in FY 1986-87. It was a 100% state trust fund service to be used to construct various designated highways and projects throughout Tennessee. It was expanded by the Transportation Equity Act for the 21st Century (TEA21) to include the National Highway System (NHS) consisting of the Interstate highway network and major primary roads. It also includes the Surface Transportation Program (STP), a block grant program for roads, mass transit and other transportation projects mandating funding of 10% for safety, 10% for enhancements, and 80% statewide. Also included in the STP and NHS are these services: Minimum Guarantee, High Priority, Safety, NHTSA, 1% MTA planning, Emergency Relief, Appalachia, Demo Projects, Enhancements, Congestion Mitigation. & Air Quality and Other Construction.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

23USCA 103(b) authorizes the Department to receive federal funds for projects related to the National Highway System (NHS). The National Highway System is composed, but not limited to rural and urban roads serving major population centers, intermodal transportation facilities, and major travel destinations

23USCA 105 authorizes the Department to receive federal funds for projects related to the Minimum Guarantee Program. For each fiscal year the Secretary allocates among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year of Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs shall equal to a percentage listed in the code (23USCA 105).

23USCA 117 authorizes the Department to receive federal funds for high priority projects. The Secretary is authorized to carry out high priority projects with funds made available under this section of the code.

23USCA 125 authorizes the Department to receive federal funds for projects related to the Emergency Relief Program. Funds are available to assist the State and local governments with the expense of repairing serious damage to Federal-aid and Federal Lands highways resulting from natural disasters or catastrophic failures.

23USCA 130 authorizes the Department to receive federal funds for projects related to railway-highway crossings. Funds may be received for cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation of protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

23USCA 133 authorizes the Department to receive federal funds for projects related to the Surface Transportation Program (STP). Funds may be received for construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways.

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23USCA 134 authorizes the Department to receive federal funds for projects related to Metropolitan Planning. Funds received are to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution

23USCA 149 authorizes the Department to receive federal funds for projects related to the Congestion Mitigation and Air Quality Program (CMAQ). Funds may be received for qualifying projects for congestion mitigation and air quality improvement.

23USCA 152 authorizes the Department to receive federal funds for projects related to the Hazard Elimination Program. Funds are available to encourage the State to conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

23USCA 402 authorizes the Department to receive federal funds for projects related to the Highway Safety Program. Funds are available to encourage the State to develop and maintain a safety service designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom.

### **Mandated and Optional Services and Means of Providing Them**

Per 23USCA 302, the use of this Federal Program is optional. 23USCA 302 basically states that if the Department desires to avail itself of the provisions of this title the Department will have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title.

The funds authorized under 23USCA 103(b) are available for expenditure on projects associated with the National Highway System (NHS). The National Highway System is composed, but not limited to rural and urban roads serving major population centers, intermodal transportation facilities, and major travel destinations. It includes the Interstate System, other urban and rural principal arterials, highways that provide motor vehicle access between the NHS and major intermodal transportation facilities, the defense strategic highway network, and strategic highway network connectors. Funds are distributed based on a formula which includes State's lane-miles of principal arterials (excluding Interstate), vehicle-miles traveled on those arterials, diesel fuel used on the State's highways, and per capita principal arterial lane-miles.

The funds authorized under 23USCA 105 are available for expenditure on projects associated with the Minimum Guarantee Program. For each fiscal year the Secretary allocates among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year of Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs shall equal to a percentage listed in the code (23USCA 105).

The funds authorized under 23USCA 117 are available for expenditure on projects associated with the High Priority Projects Program. The Secretary is authorized to carry out high priority projects with funds made available under this section of the code.

The funds authorized under 23USCA 125 are available for expenditure on projects associated with Emergency Relief. Funds are available to assist the State and local governments with the expense of repairing serious damage to Federal-aid and Federal Lands highways resulting from natural disasters or catastrophic failures.

The funds authorized under 23USCA 130 are available for expenditure on projects associated with railway-highway crossings. Funds may be received for cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation of protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

The funds authorized under 23USCA 133 are available for expenditure on projects associated with the Surface Transportation Program (STP). Funds may be received for construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a project funded under this title.

The funds authorized under 23USCA 134 are available for expenditure on projects associated with Metropolitan Planning. Funds received are to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

The funds authorized under 23USCA 149 are available for expenditure on projects associated with the Congestion Mitigation and Air Quality Improvement Program (CMAQ). Funds may be received for qualifying projects for congestion mitigation and air quality improvement.

The funds authorized under 23USCA 152 are available for expenditure on projects associated with the Hazard Elimination Program. Funds are available to encourage the State to conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

The funds authorized under 23USCA 402 are available for expenditure on projects associated with the Highway Safety Program. Funds are available to encourage the State to develop and maintain a safety service designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom.

Consultants, contractors and TDOT personnel provide these optional services. TDOT personnel providing these services are funded in allotment codes 403.00, Bureau of Engineering and 405.00, Bureau of Environment and Planning and code 412.00, Field Engineering.

### **Performance Standards**

1. TDOT's Maintenance Rating Index will be equal to or greater than 75.
2. The sum of the deck area for those bridges not classified as structurally deficient or functionally obsolete will be 75% or greater of the total deck area for all bridges.

### **Performance Measures**

1. The condition level for the system of state roads.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	75	75

2. Percentage of bridge deck area on state roads that is not structurally deficient or functionally obsolete.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
80.6%	81.5%	82.3%

### **Obstacles to Meeting Objectives and Delivering Services**

With the demand for transportation services ever increasing, fully matching the annual federal apportionment could become difficult. Fully matching the Department's federal programs and increased funding needs for other modal services comes at the expense of TDOT's 100% state projects. Fewer state funds are available forever increasing needs.

### **Means of Overcoming Obstacles**

Use of the 25-year long-range transportation plan may help in setting priorities for the various service funding levels. User tax increases would generate new revenues to be used for matching and 100% state purposes.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are apportioned on an 80% federal and 20% state matching basis. TDOT has made a priority of fully matching all available federal funds. Under the current federal highway authorization (TEA21, Transportation Equity Act, Public Law 105-178) the Department has up to four years to obligate funds to a project.

Under Title 23, TDOT applies annually for FHWA discretionary funds. TDOT also applies for

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those prior year state-shared funds that were previously distributed but not used by other states.

### **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT Internal Audit. Furthermore, the Federal Highway Administration must approve the annual work program proposal.

### **Future Challenges and Opportunities**

The challenges to this program are construction of projects that protect and preserve the environment within the funding limitations; informing the public of construction delays and alternate routes to reduce congestion; improving work zone safety; and maintaining construction engineering and project inspection expertise in the workforce.

### **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

### **Data Verification**

All projects in this program are recorded and maintained on the DOT STARS accounting system. Major construction projects are included in the PPRM system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

### **481.00 Capital Improvements**

This program includes the funding requirements for the construction or replacement of plant facilities throughout the state, which accommodate the various activities of the Department. Included are the costs of the land and development, fencing, drainage, building and major repairs and renovations of existing facilities.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

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## **Mandated and Optional Services and Means of Providing Them**

Funds are provided for replacement/construction of TDOT buildings, salt bins, radio towers and equipment, removal of underground storage tanks, and the like. These expenditures are necessary in order to preserve and maintain TDOT's investment in its physical plant. Highways are not included in this service.

This service is administered through the Maintenance Division. Projects are prioritized during the budget process and funds are appropriated. Even though TDOT provides funding for these projects, they are reviewed, approved, designed and contracted by the State Building Commission.

## **Performance Standards**

1. Obligate 100% of Capital Improvement funds available each year.

## **Performance Measures**

1. Percentage of available Capital Improvement funds obligated.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

Property damage through fire or acts of nature will prevent regularly scheduled projects from being developed on time. When these emergencies arise, funds must be redirected from scheduled projects in this program. Change of priorities through policy decisions will effect the flow of scheduled projects.

## **Means of Overcoming Obstacles**

Coordinate as much as possible with TDOT management and regional offices when scheduling capital improvement project needs.

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are no federal or other non-state sources of revenue available to this program.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT Internal Audit. Proper scheduling of projects, minimization of changes after construction has begun, and use of state forces when and if possible are utilized. All projects funded 100% before presentation to the State Building Commission.

## **Future Challenges and Opportunities**

Planning well into the future for capital improvement needs and law changes regarding construction codes is a necessary challenge. The impact of revenue reductions on the maintenance and improvements of facilities will provide for a significant future challenge.

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

Projects are recorded and tracked on the DOT account system.

TDOT is currently developing a "Performance Measurement Guidebook" to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the "Guidebook" is expected to start in October 2003. The "Guidebook" will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

## **488.00 Bridge Replacement**

The Federal-Aid Highway Act of 1970 established the program to enable states to replace bridges over waterways or other topographical barriers when the State and the Federal Highway Administration determine that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration or functional obsolescence.

The Highway Act of 1978 made off-system bridges eligible for federal funds. At least 15%, but not more than 35% of the federal apportionment to this program must be spent for off-system projects. The federal government provides 80% of the total cost of this program. The remaining 20% is provided by state and local government.

## **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers

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and duties to effectively operate the Department.

23USCA 144 authorizes the Department to receive federal funds for a highway bridge replacement and rehabilitation service.

### **Mandated and Optional Services and Means of Providing Them**

Per 23USCA 302 the use of this Federal Program is optional. 23USCA 302 basically states that if the Department desires to avail itself of the provisions of this title the Department will have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title.

The funds authorized under 23USCA 144 are available for expenditure by the State and falls under the Department of Transportation's Bridge Replacement Service. These federal funds are used to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the state finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence. Funds are used for a mandatory monitoring, evaluating and processing of data in support of the National Bridge Inspection Standards Program, established under the 1968 Federal Highway Act, and the 1978 Surface Transportation Assistance Act.

Consultants, contractors and TDOT personnel provide these optional services. TDOT personnel providing these services are funded in allotment codes 403.00, Bureau of Engineering and 405.00, Bureau of Environment and Planning.

### **Performance Standards**

1. The sum of the deck area for those bridges not classified as structurally deficient or functionally obsolete will be 75% or greater of the total deck area for all bridges.

### **Performance Measures**

1. Percentage of bridge deck area that is not structurally deficient or functionally obsolete.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
80.6%	81.5%	82.3%

### **Obstacles to Meeting Objectives and Delivering Services**

At present, the Department has a backlog in unobligated Federal Highway Bridge Replacement and Rehabilitation Program (HBRRP) funds due to the lack of priority the program has in receiving the engineering resources needed to bring projects to completion. The limited staffing at TDOT in roadway design, environmental planning and permits, as well as right-of-way cannot process bridge projects and the total load of other improvement projects that need development.

Further, it has become increasingly difficult to convince local governments to fully fund the matching HBRRP funds reserved to rehabilitate and replace locally owned bridges.

### **Means of Overcoming Obstacles**

The Department seeks to wisely and efficiently capture all available Federal Funds available for Replacement and Rehabilitation of both State owned and Local Government owned substandard bridges by:

- Striving to match all Federal Highway Bridge Replacement and Rehabilitation Program (HBRRP) funds authorized

- Utilizing credits granted by FHWA for State and Local Funds expended under the State Bridge Grant Program, as well as local bridge replacement projects funded under the State Aid Program

- Making applications for FHWA discretionary bridge funding.

### **Means of Maximizing Federal and Other Non-State Sources of Revenue**

Federal funds are on an 80% federal and 20% state/local match. All federal funds are fully matched as a priority. The federal highway authorization (TEA21, Transportation Equity Act, and Public Law 105-178) allows the Department up to three years to obligate funds to projects.

Under Title 23, TDOT applies annually for FHWA discretionary funds. TDOT also applies for those prior year state-shared funds that were previously distributed but not used by other states.

### **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT Internal Audit. Furthermore, the Federal Highway Administration must approve the annual work program proposal.

### **Future Challenges and Opportunities**

A challenge / opportunity is developing an effective Document Management System for bridge inspection data. The State, by Federal Statute inspects all 19,500 plus bridges on public roads in Tennessee, every two years and must evaluate, rate, process hundreds of data entries on each bridge into the National Bridge Inventory System. Additionally, TDOT must monitor compliance with mandatory inspection schedules and follow up on completion of recommended maintenance actions. TDOT is currently in the midst of a large Information Technology Project to provide the necessary computer hardware and software to field inspection teams in order to speed the flow of data transfer to the Headquarters Inventory and Repair Office within the Structures Division. The Department hopes to complete the System by 2004.

Development of an effective Bridge Management System. TDOT currently has the basis for a good management system, PONTIS, a computer software product licensed from AASHTO, but currently do not have the staff required to manually feed the appropriate inspection data collected

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into the program. Another IT project is underway to automate data processing that will allow the system to be functional by 2004.

### **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

### **Data Verification**

All projects in this program are recorded and maintained on the DOT STARS accounting system.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

### **494.00 Air, Water and Rail Transportation**

This program combines Aeronautics Construction with Waterways and Rail. This program is funded from the sales tax collected on gasoline and diesel fuel and distributed through the Transportation Equity Fund. Construction and capital improvements of airports, water port facilities, and rail short lines are included in this program.

### **Statutory and Constitutional Objectives**

TCA 4-3-2303 authorizes the Commissioner of the Department of Transportation with the powers and duties to effectively operate the Department.

TCA 67-6-103(b)(1)(A) establishes the Transportation Equity Fund with revenues for the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation, rail or water carriers. The funds in this account shall be used by the Department for rail, aeronautics, and waterways related services and activities.

### **Mandated and Optional Services and Means of Providing Them**

The administrative staffing and funding for Aeronautics services is provided in Code 401.00, TDOT Headquarters. These services provides the funding for project related activities/construction. Likewise, the administrative support for the water and rail service is staffed and funded in Code, 405, Bureau of Environment and Planning.

Transportation Equity funds were used to develop the Tennessee Airport System plan. This two-

year study of the statewide airport system was completed in 2001, providing framework for the orderly, ongoing and timely development of a system of airports that is adequate to meet the current and future aviation needs of the state. Other projects include the Savannah Airport project, the nation's first ultra-thin white topping on a general aviation runway. And the New Beech River Airport construction currently underway for a new regional airport. The Aeronautics service also provided Tennessee Equity Funding revenues to 69 General Aviation Airports and six Commercial Service Airports. Airport improvements included: land acquisition, runway safety area enhancements, taxiway extensions and relocations, pavement resurfacing, safety and security upgrading, airfield lighting, navigational and landing aids, updating airport layout plans and various other air-side and land-side infrastructure improvements.

Aviation also allocated funds to support statewide services such as: maintaining 37 Automated Weather Observing Systems, operational assistance to the Civil Air Patrol, safety and educational services, airport obstruction removal, and routine airfield maintenance. Funds are also being dedicated for security items at all public-use airports in Tennessee.

The services described here are delivered through the dedicated funding provided by the Transportation Equity Fund

The Rail service assisted in the establishment of 17 Railroad Authorities to maintain continued rail service to 234 industries. This service provides state funding for over 812 miles of shortline railroads, which constitutes almost 1/3 of the rail system in Tennessee.

Maintain a shortline rail network to 34 counties and 56 communities in Tennessee, which contributes to preserving more than 20,640 jobs with industries dependent on rail access. This rail network also helps keep approximately 120,000 trucks off the highway system every year. Also, Rail safety has continued to be consistently improved on this feeder rail network by providing a dedicated trust fund (transportation equity fund) composed of the sales tax on diesel fuel, which is used to upgrade the track structure. These track improvements have allowed train operations to increase speed with fewer derailments and safer conditions along the track right of ways including many road crossing improvements.

Bridge rehabilitation has improved load capacities as well as lessened the danger of bridge failure.

The Tennessee Rail System Plan is a comprehensive study of the State's rail system has been undertaken for the past two years. This has been a multi-tasked plan, which covers several components. Rail passenger service has been a primary element of this plan and it has generated the most public interest. Another key element has been the restoration of a direct East/West rail connection between Memphis and Bristol for freight movement and rail passenger service.

Waterway development consists mainly of the Tennessee – Tombigbee Waterway Authority, which promotes port development opportunities in Tennessee with a shorter route to Gulf port areas.

Like the Aeronautics service, both the Rail and Water services are provided and funded through the Transportation Equity Fund.

## **Performance Standards**

1. Provide for the total distribution of Equity Funds as directed by statute.

## **Performance Measures**

1. Percentage of funds made available for airport, waterway and railway improvement projects.

Actual (FY 2002-2003)	Estimate (FY 2003-2004)	Target (FY 2004-2005)
Not Available	100%	100%

## **Obstacles to Meeting Objectives and Delivering Services**

One obstacle for the Department is the increasing demand for services funded by a fairly fixed revenue source.

## **Means of Overcoming Obstacles**

The Department has increased this program's funding by supplementing it with Highway Fund dollars. TDOT intends to encourage the Department of Revenue to improve reporting efforts by petroleum wholesalers. (Equity Fund revenues are determined by the amount of fuel usage reported by dealers.)

## **Means of Maximizing Federal and Other Non-State Sources of Revenue**

There are federal funds provided to the Aeronautics program from the Federal Aviation Administration (FAA). These funds are designated for construction and facility improvements at general aviation airports. Local funds as well as state funds are required to match these federal dollars.

## **Means of Avoiding Unnecessary Costs and Expenditures**

This program was audited for the year ending June 30, 2002 by the Comptroller's Office and is subject to audit by TDOT Internal Audit to review by F&A's Sub-recipient Monitoring division. The Federal Highway Administration must approve the annual work program proposal.

## **Future Challenges and Opportunities**

This program will endeavor to ensure that airports meet state licensing requirements and comply with federal assurances; develop and maintain a viable rail service that provides this state and local communities with the continuation of rail service to the nation's network while meeting the challenge of the rail industry's 286,000-pound carload standards; and will address the increased freight demand on the transportation system.

Department of Transportation

## **Performance Data Schedule**

Performance measurement data and information is available for review on a quarterly basis.

## **Data Verification**

All program projects are recorded on the TDOT STARS accounting system.

TDOT is currently developing a “Performance Measurement Guidebook” to ensure consistency of data analysis and documentation by defining how the data is computed, the sources and limitations of the data and future directions for the measurement. Implementation of the “Guidebook” is expected to start in October 2003. The “Guidebook” will require a description of the mathematical algorithm to show precisely how a measurement is computed from underlying data. The algorithm will give the rigor necessary for data verification.

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*Note: Bolded text indicates a department, agency, or commission.*

State of Tennessee

# Agency Strategic Plans

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